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AMERICAN CITIZENSHIP;

AND

THE RIGHT OF SUFFRAGE IN THE
UNITED STATES.

BY TALIESIN EVANS.

[EDITORS' EDITION.]



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PREFACE.

In the preparation of this book, no special claim is made to originality, for it is, to a large extent, a compilation of national and state laws affecting citizenship and the right of voting in the United States, and of such questions relating thereto as have, from time to time, been passed upon by the Courts. Public sentiment in the United States is drifting rapidly in the direction of "restricted foreign immigration." At the same time, the nature of the restrictions now placed upon it, is not as generally understood as it should be. But there is an impression, amounting almost to a conviction, that further restrictions are needed to defend the ballot box—the palladium of our liberties—as it is open, in many quarters, to direct assault by the unnaturalized foreigner, who has no sympathy with our institutions or interest in our national welfare. Perhaps a perusal of these pages will show the weak points in our political system. An effort has been made to treat the subject in a manner and in a form that will make it acceptable and instructive to the American student, and interesting and useful to those of foreign birth who are desirous of obtaining the privilege of American citizenship and the right of the elective franchise.

TALIESIN EVANS.

OAKLAND, CAL., March 1, 1892.

THE HISTORY OF

THE HISTORY OF THE
NATION OF GREAT BRITAIN
FROM THE EARLIEST PERIODS
TO THE PRESENT TIME
BY JOHN HALLAM
ESQ.
OF LINCOLN'S INN
VOL. I.
LONDON: PRINTED BY RICHARD CLAY AND COMPANY, BUNGAY, SUFFOLK.
1850.



AMERICAN CITIZENSHIP.

The ordinary definition of citizenship is "the state of being vested with the rights and privileges of a citizen." Such a definition is, however, vague and uncertain at best. It involves the determination of what constitutes a citizen, and what are the rights and privileges which a citizen enjoys to the exclusion of the person who is not a citizen. A citizen, in the popular meaning of the word, is a member of the community to which he belongs. Citizens are the people who compose the community, and who, in their associated capacity, have established or submitted themselves to the dominion of a government for the promotion of their general welfare, and for the protection of their individual as well as their collective rights (1). Citizenship, therefore, implies membership in a nation. As a member of the body politic, a citizen, whether native or naturalized, is a person who owes allegiance to the government, who must submit to taxation for its support and give it service in case of necessity, and who is entitled, in return, to "liberty of person and conscience, to the right of acquiring and possessing property, of marriage and the social relations, of suit and defense, and to security in person, estate and reputation (2)." Citizenship, in this broad and general

(1) 92 U. S. Rep. 542.

(2) 1 Litt. (K.), 323.

sense, draws no line as to sex, age, race, color or condition, providing the person claiming it has been born within the territorial boundaries of the nation, and is under its jurisdiction, or has been naturalized in conformity with its laws, or has acquired it through the operation of a treaty, or by means of a special act of Congress, or by means of any other regular and lawful method, and has not, through the commission of any unlawful act, or any other cause, forfeited what he may have acquired by either of the processes described.

The political interpretation of citizenship in the United States implies the right to vote at all elections held for the filling of public offices or for the determination of measures affecting the public welfare, and a qualification to fill such offices as may be in the gift of the people or attainable by appointment.

American citizenship is divided, however, into two separate and distinct classifications—Federal and State—each of which may be entirely independent of the other.

I. FEDERAL CITIZENSHIP.

A person may be a citizen of the United States without enjoying State citizenship and the special rights and privileges which State citizenship confers.

Prior to the adoption of the Fourteenth Amendment of the Constitution of the United States, no mode existed of

obtaining citizenship of the United States, except by first becoming a citizen of some State. It had been long contended, and had been held by many learned authorities, and had never been judicially decided to the contrary, that there was no such thing as a citizen of the United States, except as that condition arose from citizenship of some State. The Fourteenth Amendment of the Constitution set that controversy at rest, for it defines and declares who shall be citizens of the United States, namely: "all persons born or naturalized in the United States and subject to the jurisdiction thereof." Congress was empowered by the amendment "to enforce by appropriate legislation" its provisions; and it did so, by enacting that "all persons born in the United States, and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States (1)." The constitutional qualification, "subject to the jurisdiction thereof," was intended to exclude the children of foreign representatives, who, if born in the United States, are recognized as being born within "obedience and allegiance of the country which the parents officially represent." But whatever special rights and privileges it may be in the power of a State to confer upon its citizens, there are certain constitutional rights which all Federal citizens enjoy in common (2), whether they are citizens of States or not. As to these common rights, the Federal Constitution establishes an equality between all persons, although it may be unable to confer equality as to other

(1) Rev. Stats. U. S., Sec. 1992.

(2) 3 Hughes, 13.

privileges (1). These rights in common are known as "privileges and immunities," and are fundamental in character. These privileges and immunities have been judicially defined to be "the right to come to the seat of government to assert any claim he (the citizen) may have upon the government ; to transact any business he may have with it ; to seek its protection ; to share its offices ; to engage in administering its functions ; to have free access to its seaports, through which all the operations of foreign commerce are conducted ; to use the navigable waters of the United States, however they may penetrate the territory of the several States ; to free access to the sub-treasuries, the land offices, the revenue offices and the courts of justice in the several States ; to peaceably assemble and petition for redress and grievances ; to the privilege of the writ of *habeas corpus* ; to demand the care and protection of the Federal Government over his life, liberty and property, when on the high seas or within the jurisdiction of a foreign government ; the enjoyment of all rights secured to citizens by foreign treaties with foreign nations, and the right to become a citizen of any State, of his own volition, by a *bona fide* residence therein (2)."

These general privileges of Federal citizenship may be acquired :

By inheritance—that is, by virtue of one's parentage or place of birth.

(1) 3 Hughes, 16.

(2) 6 Wallace, 35, 44 ; 16 Wallace, 36.

By marital relations.

By the cession or transfer of foreign territory.

By naturalization.

By treaty.

By special act of Congress.

By admission of a territory to Statehood.

FEDERAL CITIZENSHIP BY INHERITANCE.

Federal citizenship may be acquired by inheritance, by virtue of the citizenship of the father, irrespective of the place of birth. Thus, a child born in a foreign country, whose father is a citizen of the United States, is a Federal citizen by virtue of his father's citizenship, and under the law of expatriation (1). But a child born abroad, of persons once citizens of the United States, who have become citizens of a foreign power, is not a citizen of the United States (2). And there is a statutory limitation to the right of descent of such citizenship, for if a Federal citizen thus born abroad remains abroad, and has issue without ever having resided within the territorial boundaries of the United States, such issue has no claim to Federal citizenship.

All children heretofore or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.— *Rev. Stats. U. S., Sec. 1997.*

But the child of a Federal representative born while abroad in an official capacity (3), and a child born of American parents on board an American vessel lying in

(1) 4 McCrary, 66; 3 Dall., 133.

(2) 14 Atty. Gen. op. 295.

(3) 1 Abb. U. S. 28, 40; 1 Am. T. L. U. S. S. C. 22.

a foreign port or sailing on the high seas, are native born citizens (1) of the United States, because, by a fiction of law, the foreign residence of any official representative and a vessel carrying the national flag, are construed to be American soil, each being within the protection and obedience of the sovereign government (2). It has been held, however, that a female child born abroad whose father was an American citizen, but whose mother was a native of the country in which she was born, and who subsequently remained in the land of her nativity and married a citizen thereof, was a citizen of that country and not of the United States (3).

Federal citizenship may be acquired by inheritance by virtue of the place of birth, irrespective of the *status* of the parents.

Birth within the dominion and jurisdiction of the United States creates citizenship of itself (4).

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States. *Rev. Stats. U. S., Sec. 1992.*

To secure this birthright to the offspring, it is not necessary that the residence of the parents within the dominion and jurisdiction of the United States shall be *bona fide* or permanent. If the child is born "within the dominion and jurisdiction" during the temporary sojournment of its alien parents, it is enough. The child thus born is a natural born citizen. To illustrate: Julia Lynch was born in New York in the year 1819, of

(1) 5 Blatchford, 18.

(2) 3 Peters, 99.

(3) 12 Atty. Gen. op. 17.

(4) Sandf. 584, 639; 21 Fed. Rep. 925; 17 Chicago Leg. News, 57.

alien parents, during their temporary sojournment in that city. The temporary character of their residence in New York was shown by their return to their native country the same year. But Julia was held by the Court to be a citizen of the United States, on the principle that "every person born within the dominion and allegiance of the United States, whatever the situation of the parents, is a natural born citizen (1)."

Federal citizenship may be acquired by inheritance by virtue of the place of birth, notwithstanding the ineligibility of the parents to citizenship. The Chinese are ineligible to citizenship of the United States by a prohibitory act of Congress (2), but "a person born within the United States of Chinese parents residing therein and not engaged in any diplomatic or official capacity under the Emperor of China, is a citizen of the United States (3)," notwithstanding the parental disability. But an Indian born within the dominion of the United States whose parents are members of an Indian tribe, does not acquire Federal citizenship by virtue of his birthplace, for the reason that Indian tribes are not subject to the jurisdiction of the United States or owing it allegiance, and the child has, therefore, not been born within Federal jurisdiction (4).

The naturalization of the alien father confers Federal citizenship on the minor child (5).

(1) Sandf., 583.

(2) Passed February 18, 1875.

(3) 21 Fed. Rep., 905; 10 Sawyer, 353; 35 F. R. 354; 36 F. R. 437, 553.

(4) 2 Sawyer 118; 6 Sawyer, 406; 10 Atty. G. op. 328, 329; 211 U. S. 94; 25 Mich 303; 38 Texas 96; 58 Maine 353; 8 Paige 433; 9 Florida 205.

(5) Rev. Stats. U. S., Sec. 2172.

FEDERAL CITIZENSHIP BY MARRIAGE.

Federal citizenship may be acquired by marriage.

Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.—*Rev. Stats. U. S., Sec. 1994.*

If the husband is an alien at the time of marriage, and afterwards becomes naturalized, the wife becomes a citizen by virtue of her husband's naturalization (1). And her marriage to a naturalized citizen makes her a citizen, although she may have lived for years at a distance from him, and may never have come to this country until after his death (2). Her citizenship is not lost, either, by surviving her husband; but she may lose it by marrying an alien (3). But the marriage of a *femme sole*, or single woman, of United States citizenship with an alien, produces no dissolution of her native allegiance (4), nor does the act of marriage confer citizenship upon him. A married woman, of alien birth, may be naturalized, however, without the consent of her husband (5). The marriage tie makes a widow and her children citizens, even though the husband and father may not have been a citizen at the time of death, provided he had declared his intention to become one.

When any alien, who has complied with the first condition specified in section twenty-two hundred and six, y-five, dies before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States, and shall be entitled to all rights and privileges as such, upon taking the oath prescribed by law.—*Rev. Stats. U. S., Sec. 2168.*

(1) 7 Wall. 496, 15 Atty. G. op; 116, 600; 6 Sawyer 603; 5 F. R. 82; 11 Biss. 314; 44 N. Y. Sup. Ct. 535.

(2) 163 Ga. 458; 80 N. Y. 171; 63 N. C. 299; 26 How. Pr. 474; 14 Atty. G. op. 402.

(3) 3 Pet. 242; 15 Atty. G. op. 600; 16 Fed. Rep. 211.

(4) 3 Pet. 99, 242.

(5) 15 Blatch. 406.

The widow and orphans of an alien resident whose fulfillment of other requirements of the naturalization laws, after declaring his intention to become a citizen, has been interrupted by death, acquire citizenship by virtue of the principle which relieves the owner of an insured vessel or cargo of the penalty of loss, when such loss is caused by an act of God through the agency of the elements or other unforeseen and unavoidable event. If they were deprived of the benefit of his *bona fide* intention (an intention which it is reasonable to presume he would have faithfully carried into effect had he lived) through his death, they would be suffering the penalty of an act of God, for which no man can be held responsible.

"The children of persons who have been duly naturalized under any law of the United States, or who, previous to the passing of any law on that subject by the Government of the United States, may have become citizens of any one of the States, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof; but no person hereafter proscribed by any State, or who has been legally convicted of having joined the army of Great Britain during the Revolutionary War, shall be admitted to become a citizen without the consent of the legislature of the State in which such person was proscribed."—*Rev. Stats. U. S., Sec. 2172.*

FEDERAL CITIZENSHIP BY TERRITORIAL CESSION.

The transfer of territory from one nation to another carries with it the allegiance of those remaining in it at the time of the transfer (1). Thus, the allegiance of residents of territory ceded to the United States is thereafter due to the United States, unless differently specified in the articles of cession (2). The doctrine of election of per-

(1) Peters, 542.

(2) 1 McAllister—Circ. of Cal., 193.

sons who are residents of annexed territory, to become citizens of the country to which it has been annexed, or to return to their mother country, has been recognized by the courts (1). The treaty of Guadalupe Hidalgo (2), ceding Mexican territory to the United States, gave Mexicans (3) residing within the ceded territory the right to choose their allegiance within one year after the date of the exchange of treaty ratifications. Those who remained in the territory ceded, after the expiration of one year, without having declared their intention to retain the character of Mexicans, were considered to have elected to become citizens of the United States (a). The inhabitants of

(1) 20 How., 8; 18 How., 235; 1 New Mexico, 29, 317; 3 Ala., 546; 1 Clark Pa., 214; 2 Mast., La., 185; 1 McAllister, 186.

(2) Article VIII of the Treaty of Queretaro.

(3) The language of the treaty is "*Mexicans*," not Mexican citizens, and it has been contended that such of the Indian race as had severed their tribal relations and adopted the civilization of the Franciscan missionaries, and become attached to the several mission establishments located in the territory ceded, and who are commonly known as Mission Indians, come under the operation of the term "*Mexicans*"; but the point has never been judicially determined.

(a) "*Mexicans* now established in territories previously belonging to Mexico, and which remain, for the future, within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever,

Those who shall prefer to remain in the said territories may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain their character of Mexicans, shall be considered to have decided to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it guarantees equally ample as if the same belonged to citizens of the United States."—*Article VIII, Treaty of Queretaro, May 26, 1848.*

"The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the

Louisiana were incorporated in the Union of the United States, and admitted to all the rights of Federal citizenship, promptly after the ratification of the treaty of cession (*b*). The treaty with Russia, ceding to the United States the territory of Alaska, ratified and proclaimed June 20, 1867, gave the inhabitants of the ceded territory (uncivilized tribes excepted) the right of reserving their national allegiance and returning to Russia within three years; those remaining in the ceded territory after that period were admitted to United States citizenship (*c*). The annexation of the Republic of Texas as a State gave its citizens Federal citizenship, subject to the provisions of the State Constitution (*d*). By the cession of the Floridas to the United States by Spain, the allegiance of the

United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."—*Art. IX, Treaty of Queretaro, May 26, 1848.*

(*b*) "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principle of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property and the religion which they profess."—*Art. III, Treaty of Paris, April 30, 1803.*

(*c*) "The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country."—*Art. III, Treaty of Washington, June 20, 1867.*

(*d*) "All free male persons over the age of twenty-one years (Indians not taxed, Africans and descendants of Africans excepted), who shall have resided six months in Texas, immediately preceding the acceptance of this Constitution by the Congress of the United States, shall be deemed qualified electors."—*Sec. 2, Art. II, Const. of Texas, 1845.*

inhabitants thereof was transferred peremptorily to the United States, with the somewhat indefinite provision "as soon as may be consistent with the principles of the Federal Constitution (e)."

The principle that the allegiance of the citizens of ceded territory passes from the nation making the cession to the nation receiving it, at the time the cession is consummated, is, however, limited in its application and operation. It relates only to the natural born citizens of the nation making the cession. Naturalized citizens of the nation making the cession residing within the territory ceded at the time of the transfer, do not share with the native born in this political transition. The act of cession restores the naturalized citizen to his original civil and political status, whatever that may have been before he became naturalized, for the reason that the allegiance which he owed to the government of his adoption was purely voluntary and statutory (1).

Birth binds man by the tie of natural allegiance to the soil ; and the right to change the political relations of an inhabitant of ceded territory from the sovereign government making the cession, and within whose dominion and under whose jurisdiction such inhabitant was born,

(e) "The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects, at any time whatever, without being subject, in either case, to duties.

The inhabitants of the territories which His Catholic Majesty cedes to the United States, by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all privileges, rights, and immunities of the citizens of the United States."—*Arts. V and VI., Treaty of Washington, Feb. 22, 1821.*

(1) *Tobin vs. Walkinshaw*. 1 McAllister (Circuit of Cal.) 186.

to the sovereign government receiving it, is recognized by the law of nature and of nations. But no power exists in the one government to transfer, or in the other government to receive, the voluntary or statutory allegiance of a naturalized citizen, for his allegiance is the offspring of municipal law, and its support does not rest upon the law of nature and the code of nations. The act of cession is, to a naturalized citizen, an absolute release from all political obligations growing out of his naturalization, and it peremptorily remits him to the subjection of the government which he renounced when he was naturalized (1). He stands, therefore, in his relations to the new government of the territory ceded, in the position of an alien resident; and if he desires to submit himself to its dominion as a citizen, he must conform to its laws for the naturalization of foreigners.

FEDERAL CITIZENSHIP BY NATURALIZATION.

All civilized nations have provided rules for the admission of persons of foreign birth to the rights and privileges of citizenship by naturalization or adoption. These rules are stringent or lax according to the nature of the inducements offered to immigration, the degree of danger to the commonwealth attending an influx of a foreign element, and the facility with which persons of foreign birth assimilate with the native population. The United States is not an exception to this rule of civilized nations. An alien can acquire Federal citizen-

(1) 1 McAllister (Circ. of Cal.), 193, 194, 195.

ship in the United States only by conforming to its laws for the naturalization of the foreigner, provided, of course, he comes up to the lawful standard of eligibility (1). The Federal Constitution clothed Congress with the power, among other things, "to establish an uniform rule of naturalization * * * * throughout the United States(2)." Before the adoption of the present Federal Constitution, several of the States exercised the power to naturalize and admit persons of alien birth to citizenship. This power of naturalization, or the conferring of Federal citizenship on a qualified alien, now lies exclusively with Congress, for that body, in 1802, passed an act providing an uniform rule for the naturalization of white aliens. This rule deprives the States individually of the power of naturalizing aliens according to their own free will and pleasure, thereby giving them the rights and privileges of citizens in every other State. The exercise by Congress of the power which the Federal Constitution confers upon it "to provide an uniform rule of naturalization," was necessary to prevent one State, in its eagerness to acquire population, to so relax its rule of naturalization as to modify or break down the policy of another State in the admission of aliens to Federal citizenship. If no uniform rule of naturalization had been adopted for all of the States to follow, one State might have naturalized an alien upon one year's residence, whereas other

(1) The exceptions to this general rule are those whose allegiance passed with the possessions of the soil by territorial cession, or by treaty, and such as may have citizenship conferred upon them by special act of Congress.

(2) Const. U. S. Sec. 8.

States, more conservative, might have required a much longer term of residence; or, if the act of Congress, after the adoption of the uniform rule of naturalization which requires five years residence as an essential element of naturalization, had not deprived the States in their individual capacity of the power of naturalization, it would have been of no use whatever (1).

WHO ARE ELIGIBLE TO NATURALIZATION.

The first point to determine in connection with the conversion of an alien to citizenship, is presented in the question: Who are eligible to become naturalized?

According to the act of Congress of April, 1802, any alien, "being a free white person," was eligible to admission to Federal citizenship. In the revision of the Federal statutes, adopted by Congress June 22, 1874, the words "free white person" were dropped, and the statutory declaration of race qualification read "any alien may be admitted." All barriers against race and color were thus completely broken down, although it was designed only for the conferring of citizenship upon the freedmen of African nativity and descent. Congress corrected the error July 18, 1875, and restored the qualification to its former condition, excepting that the privilege of naturalization was extended to "aliens of African nativity and to persons of African descent."

"The provisions of this title shall apply to aliens, being free white persons, and to aliens of African nativity, and to persons of African descent.--*Rev. Stats. U. S., Sec. 2169.*

(1) Kent's Com., 424.

It is very evident that all members of the human family are not embraced in the qualification of naturalization as a citizen of the United States. The race qualification of citizenship is restricted by a color line—white and black. The statutory term, "free white," may be fairly considered as a misnomer, for on no part of the globe is the white man in a state of bondage, excepting, perhaps, in the Turkish empire, unless he be in bondage for crime; and a felon, whether white or black, is ineligible to citizenship, by virtue of his offense against the laws of society. And, excepting bondage for crime, slavery can no longer exist in the United States.

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."—*XIII Amendment to the Federal Constitution, Sec. 1.*

A qualified alien must comply with conditions which may be briefly summed up, as follows, before he can be admitted to Federal citizenship by naturalization:

1st. He must declare his *bona fide* intention to become a citizen, and also his *bona fide* intention to renounce the allegiance he owes at the time of making the declaration.

2d. He must make these declarations of intention at least two years prior to his admission to citizenship.

3d. He must make these declarations of intention before a court of record, or before the clerk of a court of record at the clerk's office.

4th. He must have resided continuously in the United States at least five years next preceding his application for admission to citizenship.

5th. He must have resided in the State or Territory in which he applies for admission to citizenship at least one year before making the application.

6th. He must prove his good moral character during the five years of his probation (1).

7th. He must prove to the satisfaction of the court his attachment to the Federal Constitution.

8th. He must prove to the satisfaction of the court that he is well disposed to the good order and happiness of the United States.

9th. He must positively renounce all former allegiance, and swear fealty to the United States.

10th. If he possesses any hereditary title or order of nobility, he must publicly renounce the same.

The place and manner in which the declarations of the intending citizen by naturalization shall be made, are thus set forth :

"An alien may be admitted to become a citizen of the United States in the following manner, and not otherwise :

FIRST—He shall declare on oath, before a circuit or district court of the United States, or Supreme Court of the Territories, or a court of record of any of the States having common law jurisdiction, and a seal and a clerk, two years, at least, prior to his admission, that it is *bona fide* his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and, particularly, by name to the prince, potentate, state or sovereignty of which the alien may be at the time a citizen or subject."—*Rev. Stats. U. S., Sec. 2165, Subdiv. 1.*

(1) It has been held that evidence of his conviction for a crime committed since he came to the country to reside, will bar his application, notwithstanding it occurred more than five years previous to the application (5 *Sawyer*, 195; 18 *Abb. Law J.*, 153; 6 *F. Rep.*, 293); and an alien convicted of perjury, while residing here, though pardoned, is not "of good moral character," entitled to admission (5 *Sawyer*, 195); to have been guilty of murder, robbery, theft, bribery, perjury, or any crime which can be classed as infamous, or the habitual sale of unlicensed liquors, would bar the applicant from citizenship (5 *Sawyer*, 195); and an alien who lives in a state of polygamy, or who believes that polygamy may be rightfully practiced in defiance of the law to the contrary, is not entitled to citizenship (5 *Sawyer*, 195; *Fed. Dig.*, 25; 5 *West. Jur.*, 171).

The Police Court of the District of Columbia is specially debarred from naturalizing foreigners.

"The Police Court of the District of Columbia shall have no power to naturalize foreigners."—*Rev. Stats. U. S., Sec. 2173.*

The authority to receive the declarations of intention of an alien has, however, been extended to the clerk of any court of record previously named, by the following statutory amendment :

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the declaration of intention to become a citizen of the United States, required by Section 2165 of the Revised Statutes of the United States, may be made by an alien before the clerk of any of the courts named in said Section 2165; and all such declarations heretofore made before any such clerk are hereby declared as legal and valid as if made before one of the courts named in said section."—*Rev. Stats. U. S., Addendum to Sub. 6 of Sec. 2165.*

But when the declaration of intention of an alien is made before the clerk of a court of record of proper jurisdiction, it must be made in the regular office of the clerk, or in the place where the records of the court are regularly kept. Mrs. Langtry, a professional beauty and actress, a subject of Great Britain, being desirous of qualifying to institute proceedings for divorce in the courts of the United States, located in San Francisco and declared her intention to become a citizen of the United States before the Clerk of the Circuit Court of the United States of the Ninth District. Desiring to avoid notoriety and the public curiosity, it was agreed to receive her declaration of intention at her residence, and for that purpose the clerk of the court visited her at her residence, taking with him the necessary records and seal of the court, and there received her declaration of intention. Subsequently the validity of the act was questioned, and

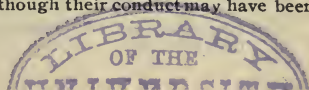
the Court held that the Clerk of the United States Circuit Court has no authority to take from an alien a declaration of his intention to become a citizen of the United States at the private residence of the party, and for that purpose to carry the records of the court from the clerk's office to such residence (1).

A qualified alien, making this declaration of intention, may do so, if he so desires, immediately after entering the dominion of the United States, or he may wait for a period of three years (or a longer period) after entering the United States, before making his declaration. If the declaration of intention is made immediately on arrival in the country, then no further steps toward securing admission to Federal citizenship can be taken for a term of five years. If, however, a period of three or more years shall have elapsed since the arrival in the United States of the alien seeking citizenship and the declaration of his intention, then the final proceedings admitting him to citizenship may be taken at the end of two years, but no sooner. In any event, the applicant for citizenship must have been a continuous resident for five years next preceding his admission; and to make this fact clear, Congress first declared:

"It shall be made to appear to the satisfaction of the court admitting such alien that he has resided within the United States five years at least, and within the state or territory where such court is at the time held, one year at least; and that during that time he has behaved as a man of good moral character (2), attached to the principles of the Constitution of the United States and well disposed to the good order and the happiness of the same, but the oath of the applicant shall in no case be allowed to prove his residence."—*Rev. Stats. U. S.*, Sec. 2165, Subd. 3.

(1) *In re Langtry*, 31 Fed. Rep., 879; 12 Sawyer, 467.

(2) Applicants for naturalization have been denied the privilege where the evidence showed that prior to the period of statutory probation they had not behaved as "of good moral character," although their conduct may have been subsequently irreproachable (see p. 17).



Lest, however, there might be a doubt as to the necessity of the term of residence preceding admission to citizenship being continuous, Congress further declared:

"No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States."—*Rev. Stats. U. S., Sec. 2170 (1)*.

Originally this section of the act contained the following words: "without being at any time during the said five years out of the territory of the United States," and they remained there until June 26, 1848, when they were stricken out by Congress (2). An alien resident of the United States, qualifying to be admitted to citizenship, could not, prior to the elimination of this restriction from the statute, leave the territory of the United States for any purpose, or for any period of time, no matter how brief, without forfeiture of all the benefits that had accrued to him by reason of his previous residence within its "dominion and jurisdiction." His residence began, therefore, from the date of his return to the country after his temporary absence. It is still the language and intent of the law that the applicant shall have been a *bona fide* resident of the United States for an unbroken period of five years, to enable him to be lawfully admitted to citizenship. To what extent an alien resident may absent himself from the country, if at all, to sojourn in a foreign country, and not lose his *bona fide* residence in the United States, and not forfeit the benefits accruing to him under the naturalization laws from that residence, is undetermined. He may have no more right to leave the country

(1) 4 Peters, 393; 1 Cranch, 186, 219, 243; 1 Peters, 457.

(2) 9 Stat., 240.

now for any purpose, or for any period of time, no matter how brief, than he had before the surplusage quoted was stricken out by Congress; for, in leaving the country, he passes out of the dominion and jurisdiction of the United States, and, being a foreign subject, he owes no allegiance to the Federal government (1). At all events, it is self-

(1) There is nothing in any of the cases reported in the books indicating that the applicant for citizenship may, during the time he is acquiring a residence qualification, leave the country for any length of time, or for any purpose, except as a mariner serving in an American merchant vessel, without forfeiture of that which he may have previously gained. And the residence must be of a permanent nature, such as to show the *bona fide* intention of the applicant to remain permanently in the country. Sojournment or transitory residence is not enough. "Proof that the applicant has continued within the jurisdiction of the United States for more than the required five years is not enough. The law contemplates territorial residence." (*4 N. Y. Leg. Obs., 98; 1 Abb. Dig., 628*). An alien might, for instance, travel throughout the United States, from place to place, for purposes of pleasure or business, covering a period of five years or more, without acquiring fixed residence anywhere. He would thus have been continuously within the dominion and jurisdiction of the United States, nevertheless he would be disqualified for admission to citizenship, for the reason that he was merely a sojourner and not a resident. Being continuously within the dominion and jurisdiction of the United States does not imply residence, but continuity of residence in the United States does imply being continuously within its dominion and jurisdiction.

Several cases are recorded in which the courts have passed upon the subject of continuity of residence as an essential element in the admission of an applicant for citizenship.

In 1804, an alien named Walton applied to the Circuit Court at Alexandria for citizenship. An affidavit was submitted in his behalf, which showed that the applicant had "resided within the United States upwards of six years; that during that period he was absent from the country a short time on business, but left his family in the United States; that he had resided for more than one year last past in Alexandria, in the District of Columbia, and that during all the aforesaid time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; that the said Walton removed to the United States, as this deponent understood, and doth verily believe, with the intention of making said States his place of permanent residence, and that he hath not relinquished his intention." The application was objected to and rejected by the court, because the residence did not appear to be a continued residence.—*1 Cranch, 186*.

Another alien, named James Saunderson, applied to the same Court for admission to citizenship, in which it appeared that the continuity of his residence had been disturbed. William Hodgson, the witness testifying to the applicant's residence, filed an affidavit setting forth that Saunderson came to the United States in October, 1797, and continued to reside here until 1800, when he went to England and returned in April, 1801. In the fall of 1801, he went to England again, and returned to the United States in 1802, after that remaining continuously in Alexandria until the date of his application for admission to citizenship, the various periods of his residence in the

evident that a removal from the United States into a foreign country, and there engaging in his regular occupation, or in any permanent form of trade, requiring presumptively regular and permanent residence therein, would be, in itself, conclusive proof of an abandonment of the residence previously acquired in the United States, and a voluntary surrender of all advantage in the process of naturalization gained through it, for it would demonstrate that the *intent* of the applicant for citizenship was not *bona fide*. And a declaration of intention to become a citizen of the United States, made in due form prior to removal to a foreign country, would not avail, for like reason. It is evident Congress had in mind the possibility of such a combination of circumstances. And its intention that an alien's residence in the United States, so interrupted, should operate to his disadvantage, was clearly manifested in the fact that it made an exception in the case of a seaman, being a foreigner, who desired to acquire citizenship by naturalization, by providing that after a declaration of his intention to become a citizen had been made, followed by three years' service on board of a merchant vessel of the United States, he could acquire it on application to any competent court, the production of a certificate of dis-country, when combined, aggregating more than five year. The Court refused to admit him, because he had not continued to reside according to the act of 1804.—1 *Cranch*, 219.

The application of an alien, named Pasqualt, to be naturalized, in whose favor an affidavit showed that he had resided in Alexandria upwards of five years, and that he had during that time sailed from the port of Alexandria in American vessels, as a mariner, was granted, and he was admitted (1 *Cranch*, 243), because his absence from the country was clearly admissible under that provision of the naturalization laws defining the manner in which an alien seaman may be admitted to citizenship. (See p. 23.)

charge and good conduct and of the certificate of his declaration of intention. The acquirement of Federal citizenship under these favorable conditions is permissible only for the specific purpose of pursuing his avocation as a seaman thereafter on merchant vessels carrying the flag of the United States.

"Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States, in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such a citizen."—*Rev. Stats. U. S., Sec. 2174.*

But the three years' service, as a seaman, has to be rendered on a vessel belonging to the mercantile (1) marine of the United States, which, by a fiction of law, as previously stated (2), is constructively a part of the United States. He will have been, thus, in the pursuit of his regular occupation, in the eyes of the law, a continuous resident of the United States for the required period subsequent to the declaration of his intention to become a citizen. Any interruption to the continuity of this service, by employment as a seaman on a vessel sailing under a foreign flag, or under another employer on foreign soil, would be fatal to his claim for admission to citizenship and serve as a forfeiture of whatever advantage he had previously gained through his declara-

(1.) It has been held that this section of the naturalization laws does not apply to the naval service.—*14 Phila., 211.*

(2) See "Federal Citizenship by Inheritance," p. 5.

tion and the service he had rendered on an American vessel following it, for the reason that he, being still a foreign subject, had gone without the "dominion and jurisdiction of the United States" during the period of his employment in a foreign vessel or on foreign soil. In like manner, and for like reason, A. B., who has been a resident of the United States for three years, declares his intention to become a citizen of the United States and then removes to a foreign state where he follows his ordinary avocation, has, on his return to the United States, forfeited all the advantage gained by him through his past residence and his declaration of intention; and to lawfully acquire Federal citizenship, it will be necessary for him to begin *de novo*, as if he had never been a resident of the United States, or had never made a declaration of intention to become a citizen. A residence thus interrupted can not have been continuous, and it has not, therefore, been *bona fide*. Residence is, consequently, an essential element in the naturalization of an alien. If there is any irregularity in this respect, it must, necessarily, be fatal to all other proceedings in the applicant's efforts to become naturalized. A declaration of intention makes no change in an alien's allegiance. He remains as much a subject of a foreign country as if he had made no declaration of intention to renounce his allegiance to it; and he continues to owe allegiance to it until the laws of this country permit him to perform the final act of renunciation; that is, "a foreign subject remains such until naturalization is complete according to our

laws (1).” He owes no allegiance to the government of the United States; nor has that government any claim upon his allegiance until his original allegiance shall have been renounced. As a foreigner residing within the dominion of the United States, the Federal government has nominal jurisdiction over him. But if he passes out of its dominion, he also passes out of its jurisdiction, and the act must be construed as an abandonment of his declared intention to become a citizen of the United States; and all the advantage he may have acquired under such declaration, and during the time of his residence within the dominion and under the jurisdiction of the United States, up to the time of leaving such dominion and escaping from such jurisdiction, will have been forever forfeited. Return to the country does not relieve the forfeiture, no matter how brief the absence from it or the object of such absence.

Wherever it has been possible for Congress to express, in the naturalization laws, the necessity for the intending citizen to preserve an unbroken residence during the probationary term of five years, so as to regularly qualify, it has emphasized the declaration, even going so far as to refuse to permit the oath of the applicant on the subject to be taken by the court, placing that responsible duty upon those who are citizens, on the presumption that their loyalty to the government is a barrier to fraud, and their disinterestedness a defence against perjury, which a foreigner, in his overweening desire to acquire Federal citizenship, might be tempted to commit.

(1) 4 Dillon, 425; 25 F. R., 673; 3 Wall jr. 1.

"The oath of the applicant shall in no case be allowed to prove his residence."—*Rev. Stats. U. S., Sec. 2165, Subdiv. 3.*

If the court should take his testimony on the subject under oath, and he should swear falsely, it cannot form the basis of a charge of perjury, for the reason that it is extra judicial (1). The courts, therefore, require the testimony, under oath, of at least two citizens of good standing to determine the residence qualification of the applicant, it being reasonably presumed that their loyalty to the government and to the principles of our republican institutions, will prevent them from giving false evidence. Should they, however, testify falsely, they may be held for perjury. These witnesses must be able to testify under oath, of their own knowledge (2), that the applicant has been a resident of the United States for five years at least, and within the State or Territory wherein the court is held for at least one year (see p. 19). But the order of a court of competent jurisdiction admitting an alien to citizenship, is in the nature of a judgment, and, in the absence of fraud, is conclusive as to the question of the requisite length of residence of the naturalized citizen in the United States (3). The naturalization of an alien, as a citizen of the United States, is strictly a judicial act. The action of the court must be entered of record as its judgment, and, if valid, it is final, and closes inquiry (4). But, *per contra*, if it be shown to the satisfaction of the court that it has been

(1) 30 Fed. Rep., 672; 5 Abb. Dig., 96.

(2) "Naturalization cannot be proved by parol."—31 Fed. Rep., 106; 5 Abb. Dig; 95.

(3) 2 Abb. U. S , 434; 4 Peters, 393.

(4) 31 Fed. Rep. 106; 5 Abb. Dig. 96.

imposed upon and deceived; and that naturalization has been secured by fraud, it has the power and must set aside the order admitting the alien to citizenship, which act restores him to his original allegiance; but the witnesses, through whose false testimony the court was imposed upon and the fraud was committed, may be held for perjury.

The applicant for admission to Federal citizenship must be acquainted with the provisions of the Federal Constitution and in sympathy with its principles, otherwise he cannot intelligently and truthfully declare that he will support it or the government of which it is the fundamental law. He must, also, sever absolutely all his civil and political obligations to the sovereignty of which he has been, up to that time, a subject or citizen, for there can be no sincerity or security in a divided allegiance.

He shall, at the time of his application to be admitted, declare, on oath, before some one of the courts above specified, that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance to every foreign prince, potentate, state, or sovereignty; and, particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; which proceedings shall be recorded by the clerk of the court.—*Rev. Stats. U. S., Sec. 2165, Sub.*

Hereditary Titles and Orders of Nobility.

Hereditary titles and orders of nobility are outgrowths of monarchical institutions, repugnant to our form of government, which is "of the people, by the people and for the people," and in violent antagonism to that fundamental truth which constitutes the foundation stone of American liberty—"that all men are created equal (1)."

(1) Declaration of Independence.

Such titles and orders also carry with them obligations, more or less specific and binding, from the wearer to the State and government whence they have been derived. If, therefore, an alien applying for Federal citizenship, is possessed, by inheritance or by investiture, of any title or order of nobility, he cannot qualify and retain any of these dignities. They must be surrendered absolutely and irrevocably. The law permits no compromise on the subject. If, then, the law is so unyielding on the subject of the retention of any hereditary title or order of nobility, it is reasonable to presume that the acceptance by an American citizen, whether native-born or naturalized, of any order of nobility or title from any foreign prince, or potentate, sovereignty or state, unless Congress by special act should consent, places his citizenship in jeopardy, if he does not in fact forfeit it; for, inasmuch as the renunciation of such title or order is made a special condition of admission to citizenship, and its retention constitutes a bar, an acceptance of it by a citizen will, by the same process of reasoning, work a forfeiture of citizenship (1). So repugnant were orders of nobility and hereditary titles to the founders of the Government that special prohibitory provisions relating to them were incorporated in the Federal Constitution.

(1) The author is free to admit that the Federal Constitution is silent as to citizens not holding public office. Orders of nobility have been conferred on American citizens by foreign princes, and accepted by them without asking for or receiving the consent of Congress, and without surrender of their citizenship. Their right to accept such order of nobility and retain citizenship has never, so far as the author has been able to discover, been brought under judicial consideration, and it is, therefore, still open. However, there can be no resisting the conclusion that if a national favor is secured by a special renunciation, an acceptance of that which serves as a bar to receiving that favor must of itself operate as a forfeiture of the favor.

SEC. 9. * * * No Title of Nobility shall be granted by the United States. And no person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any Present. Emolument, Office or Title of any kind whatever, from any King, Prince or foreign State.

SEC. 10. No State shall * * * grant any Title of Nobility.—*Art. I, Constitution of the United States.*

In case the alien applying to be admitted to citizenship has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.—*Rev. Stats. U. S., Sec. 2165, Sub. 4.*

Most of the State constitutions also contain provisions prohibiting the issuance of orders of nobility or the granting of hereditary titles by the State.

Naturalization by Privilege.

There are exceptions to some of the foregoing rules of naturalization provided for by statute, and which may be classed as privileged. The case of the widow and orphans of an alien resident who, after declaring his intention to become a citizen of the United States, is prevented by death from fulfilling the other requirements of the naturalization laws and completing his citizenship, has already been cited (see p. 8). Another exception is made in the case of an alien who does military service for the country. An alien who offers his life in the service of the United States, offers, it is presumed, the strongest evidence of his devotion to the principles of the government and republican institutions, and a *bona fide* desire to adopt them as his own. He is, therefore, privileged to be admitted to Federal citizenship after one year's residence in the United States, coupled with an honorable discharge

from the service of the United States, provided he was of age at the time of his enlistment.

Any alien, of the age of twenty one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.—*Rev. Stats. U. S., Sec. 2166.*

An alien, who has done military service for the United States, may thus acquire Federal citizenship without making any declaration of his intention to become one, his enlistment being accepted as a satisfactory substitute therefor. This rule also applies to the navy (1), but not to marines (2).

Naturalization without Probation after Declaration of Intention.

It is possible, however, for an alien who has rendered no military or other service to the United States, which would entitle him to be privileged, to acquire Federal citizenship without submitting to any interval of probation between the time the declaration of intention is made and the consummation of the final act of admission. The declaration of intention, in such a case, shall be made at the time of admission, and must be retro-active in its form, namely, that, *for two years next preceding*, it has been the applicant's *bona fide* intention to become a citizen of the United States. The alien coming under

(1) 7 Rob., N. Y., 635.

(2) 2 Sawyer, 200; 2 Daly, N. Y., 525.

the operation of this statutory provision must have reached the United States at least three years next preceding the attainment of his majority. But he cannot claim admission until he shall have resided continuously in the country for a period of five years, including whatever portion of his minority (if it be not less than three years) he may have resided continuously in the United States. But the continuity of his five years' residence is just as essential to his acquirement of Federal citizenship, when he enters the country as a minor, reliant upon the merits of residence only for a proper qualification, as it would have been had he entered the United States after reaching his majority. The declaration of intention, in a minor's case, follows the period of probation, instead of preceding or intersecting it, as in the case of an adult alien.

"Any alien, being under the age of twenty-one years, who has resided in the United States three years next preceding his arriving at that age, and who has continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he has resided five years within the United States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of section twenty-one hundred and sixty-five; but such alien shall make the declaration required therein at the time of his admission; and shall further declare, on oath, and prove to the satisfaction of the court, that for two years next preceding, it has been his *bona fide* intention to become a citizen of the United States; and he shall in all other respects comply with the laws in regard to naturalization."—*Rev. Stats. U. S., Sec. 2167.*

FEDERAL CITIZENSHIP BY TREATY.

It has already been shown how the Russian citizens of Alaska, Mexicans inhabiting the territory ceded under the treaty of Guadalupe Hidalgo, the Spanish citizens of the Floridas, and the French citizens of Louisiana, were

endowed, at the time of the territorial transfer, with the right of United States citizenship by special provisions in each of the several treaties ratified by the powers concerned (see p. 10). By treaty, some of the Indian tribes have, also, been enabled to acquire Federal citizenship. The Wyandotts, the Pottawatomies, the Ottawas, the Delawares, Miamis, and various tribes in Kansas, have been admitted to Federal citizenship by treaty at intervals during the past forty years. But the subject is discussed at greater length in another part of this volume in considering the political status of the aboriginal tribes.

FEDERAL CITIZENSHIP BY SPECIAL CONGRESSIONAL LEGISLATION.

The act of Congress providing an uniform rule of naturalization for the guidance of all the States and Territories in the admission of aliens to citizenship contained several provisions for the special admission of persons therein specified. For those aliens who were residing in the United States before January 29, 1795, a term of two years comprised the residence qualification, with, of course, the customary abjuration of allegiance and fidelity to any foreign power and a sworn declaration to support the Federal Constitution.

Any alien who was residing within the limits and under the jurisdiction of the United States before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof made to some one of the courts above specified, that he has resided two years, at least, within the jurisdiction of the United States, and one year, at least, immediately preceding his application, within the State or Territory where such court is at the time held; and on his declaring on oath that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly, by name, to the

prince, potentate, state, or sovereignty whereof he was before a citizen or subject; and, also, on its appearing to the satisfaction of the court, that during such term of two years he has behaved as a man of good moral character, attached to the Constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien, applying for admission to citizenship, has borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his, moreover, making in the court an express renunciation of his title or order of nobility. All of the proceedings, required in this condition to be performed in the court, shall be recorded by the clerk thereof.—*Rev. Stats. U. S., Sec. 2165, Subd. 5*

Another opportunity to secure admission on special conditions was afforded aliens at the time of the outbreak of hostilities between the United States and Great Britain in 1812, that is, to such of them as resided in the United States between June 18, 1798, and June 18, 1812.

Any alien who was residing within the limits and jurisdiction of the the United States, between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States without having made any previous declaration of his intention to become such; but whenever any person, without a certificate of such declaration of intention, makes application to be admitted a citizen, it must be proved to the satisfaction of the court, that the applicant was residing within the limits and under the jurisdiction of the United States before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same; and the residence of the applicant within the limits and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, must be proved by the oath of citizens of the United States, which citizens shall be named in the record as witnesses; and such continued residence within the limits and under the jurisdiction of the United States, when satisfactorily proved, and the place where the applicant has resided for at least five years, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States.—*Rev. Stats. U. S., Sec. 2165, Sub. 6.*

No alien who is a native citizen, or subject, or a denizen of any country, state, or sovereignty, with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the Territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had before that day made a declaration, according to law, of their intention to become a citizen of the United States, or who were on that day entitled to become citizens without making such declaration, may be entitled to become citizens thereof, notwithstanding they were alien enemies at the time and in the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained be taken or construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.—*Rev. Stats. U. S., Sec. 2171.*

The acquisition of territory in the Northwest, then known as the Territory of Oregon, brought another class of persons under the influence of special legislation, and they were thus given citizenship.

All persons born in the district of country formerly known as the Territory of Oregon, and subject to the jurisdiction of the United States on the 18th of May, 1872, are citizens in the same manner as if born elsewhere in the United States.—*Rev. Stats. U. S., Sec. 1995.*

The power of Congress, by special act, to admit ineligible to Federal citizenship, is fully treated hereafter.

FEDERAL CITIZENSHIP BY TERRITORIAL ADMISSION TO STATEHOOD.

Congress is clothed with power to admit a Territory to the Union of States on such terms and conditions as it may deem fit (1). There has been no uniformity about the manner in which this power has been exercised. In some instances, the adoption of an act to enable the inhabitants of a Territory to organize a State government and adopt a State constitution, was the method employed by Congress. Compliance with the conditions of the Enabling Act constituted admission without further action of Congress. In other instances, Congressional action was antecedent, and in still other cases both precedent and antecedent, to the forming of a Constitution and a State government by the territorial inhabitants. The same lack of uniformity is noticeable in the Congressional conditions of admission and in the language expressing the status of the new State. The Act of Admission in some cases admitted the Territory to Statehood in

(1) Sec. 3, Art. IV, Federal Constitution.

the Union "on an equal footing with the original States;" in other cases, "on an equal footing with the original States *in all respects whatever*;" and, in other cases, "on an equal footing with the *other* States in all respects whatever."

The Articles of Confederation of the thirteen original States (1) contained this definition of citizenship in the union of States :

"The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States (paupers, vagabonds and fugitives from justice excepted), shall be entitled to all privileges and immunities of free citizens in the several States."—*Art. IV, Articles of Confederation.*

Freedom, residence, self-dependence and good repute thus constituted the sole qualifications of citizenship in the confederation of the original States, separately and collectively. The admission of a Territory to the Union of States "on an equal footing with the original States in all respects whatever," may, therefore, imply that the political status and the standard of State and Federal citizenship of its inhabitants, at the time of its admission, are identical with the political status and standard of citizenship of the inhabitants of the original States when they formed the Union. If so, it is unnecessary for an alien inhabitant of a Territory thus entering the Union of States (if such inhabitant is free, self-dependent and of good repute), to comply with any of the requirements of the naturalization laws created by Congress, for the Act of Admission would be, in its relations to such alien inhabitant, a special act of natural-

(1) Agreed to Nov. 15, 1777.

ization, as effective in its operation as any special act passed by Congress for the admission to Federal citizenship of any person or persons ineligible (1) to receive it under the ordinary rules and methods of acquisition (2).

ABRIDGED PRIVILEGES OF NATURALIZED CITIZENS.

Presumptively there is no difference or distinction between one Federal citizen and another. The Fourteenth Amendment to the Constitution made the native-born and the naturalized citizens of the United States equal, and prohibited the States, in their separate and independent capacity, from abridging their privileges or immunities. For all that, the Federal Constitution abridges the privileges and immunities of the naturalized citizen as compared with those enjoyed by the citizen of native birth, and an age limitation is placed also on the native-born.

(1) Such as an act admitting an Indian, or an Indian tribe, to Federal citizenship.

(2) The right of an alien inhabitant of a Territory entering Statehood, who has taken none of the steps prescribed in the naturalization laws, to State and Federal citizenship under the provision contained in the Act of Admission of the Territory, to wit: "on an equal footing with the original States in all respects whatever," is being tested in the courts. James E. Boyd, a person of foreign birth, who had resided in Nebraska for over thirty-five years, was elected Governor of that State in 1890. His right to the office was, however, challenged on the ground that he was not a citizen of the United States, not having been naturalized, and the Supreme Court of Nebraska sustained the challenge, and ousted Boyd from office, whereupon he appealed to the Supreme Court of the United States. The appellant relies mainly on the fact that he was a resident of the Territory of Nebraska when it was admitted to the Union of States "on an equal footing with the original States in every respect whatever;" and that, as a result of the Act of Admission, he became a citizen of the State and of the United States, in the same manner, under the same circumstances, and on the same conditions as a resident of one of the original thirteen States became a citizen of the United States under the Articles of Confederation creating the Union, namely, that of being a free inhabitant, self-dependent and of good repute.

No naturalized citizen can ever be President of the United States ; and in some of the States naturalized citizens are not eligible to the Governorship. As originally adopted, the Federal Constitution restricted eligibility to the Presidency to natural born citizens or citizens of the United States at the time of its adoption. But neither class could then attain the Presidency unless thirty-five years of age, and fourteen years a resident of the country. No foreign-born citizen at the time of the formation of the government was, consequently, eligible unless he had participated in the struggle for independence, and had fully alienated himself from the mother country. But, on the qualifications of the Vice-President, the Constitution was silent. The possibility of a citizen who was ineligible to the Presidency by election, obtaining it by right of succession, was evidently apprehended by Congress in 1803, when it submitted the XIIth amendment to the Constitution of the United States to the Legislatures of the several States for ratification, for that amendment specifically provided that "no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States." But the death of President Garfield and the danger threatening the life of Vice-President Arthur, when he succeeded Garfield as President, showed clearly the necessity of extending still further the line of succession. Therefore, agreeably with the powers conferred by Clause 6, Sec. 1, Art II, of the Constitution, Congress, in 1886, provided more fully for the succession

to the Presidency. In case of removal, death, resignation or inability of the President or Vice-President, this act of Congress directs that the office devolve, first, upon the Secretary of State, and in case of his inability, for any reason, to perform its duties, it shall pass, successively, upon similar conditions, to the Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and Secretary of the Interior. If, however, any one of these officers should be of foreign birth, the Presidency passes to the next name in the list. Thus the exclusion of the naturalized citizen was made more complete and thorough, and the possibility of the head of the Government falling into the hands of a person of foreign birth was forever removed.

A naturalized citizen cannot hold a seat in the House of Representatives until he has been seven years a citizen of the United States. Nor can a native-born sit in the House unless he shall have attained the age of twenty-five.

A naturalized citizen cannot be a Senator of the United States unless he shall have been nine years a citizen of the United States; nor can a native-born unless he shall have attained the age of thirty years.

The allegiance of a native-born citizen can be transferred with a change of sovereignty, but that of a naturalized citizen can not be so transferred (see p. 9).

In the registration of a vessel, owned in part or in whole, by a Federal citizen, there is some discrimination

against the naturalized citizen, and his privileges are abridged.

No vessel shall be entitled to be registered as a vessel of the United States, or, if registered, to the benefits of registry, if owned in whole or in part by any person naturalized in the United States, and residing for more than one year in the country from which he originated, or for more than two years in any foreign country, unless such person be a consul or other public agent of the United States.—*Rev. Stats. U. S., Sec. 4134.*

WHO ARE INELIGIBLE TO FEDERAL CITIZENSHIP.

Although the Declaration of Independence—the foundation stone of American liberty and nationality—declared “that all men are born equal,” Congress never deemed it prudent to recognize this universal equality in the human family, when it exercised the authority vested in it by the Federal Constitution, and provided an uniform rule for the naturalization of such members of the various races as were, by the accident of birth, brought under the jurisdiction of other governments, but who desired to abandon their natural allegiance and swear fealty to the United States as their adopted country. In determining who should be eligible, Congress was originally influenced to adopt the color line as the standard, limiting eligibility to “free whites,” because the black man was then in a state of bondage and degradation in several of the States, and, consequently, unfit to receive the boon of citizenship and incapable of exercising, of his own free will and accord, its rights and privileges, had he possessed it; and the red man—the original possessor of the soil—was still in a state of savagery and incapable of appreciating and intelligently exercising and enjoying

the rights and privileges of a civilized state, which citizenship would have conferred upon him. The abolition of slavery gave the black man an opportunity, as a free and responsible member of the body politic, to demonstrate his fitness for citizenship, and his capability to exercise its rights and privileges, whenever citizenship should be conferred upon him. And so far as the man of African nativity and African descent is concerned, he is unaffected by any color line now existing, and he stands on the same constitutional level as the "free white," in his relations to Federal citizenship.

Chinese Ineligible.

But the red man and the yellow man—the Indian and the Mongolian—are still outside the pale of statutory eligibility to Federal citizenship ; the former, because he is still in a savage or tribal state and largely in a condition of helpless dependency ; the latter, because he does not assimilate with the white and black races and refuses to adopt our form of civilization and submit to our social customs. There was, however, a brief period in the history of the country when even Chinese, notwithstanding the objections stated, were eligible to citizenship. This was brought about by a revision of the United States Statutes, by Congress, June 22, 1874, when, through an oversight of the revisers, the words, "being a free white person," were omitted from the section in the naturalization laws declaring that "any alien, being a free white person, may be admitted to become a citizen." Through this

omission all barriers growing out of race, color or condition were broken down, and the equality of man was recognized in its broadest and most liberal meaning and significance in the naturalization laws of the country (1).

Congress corrected the error, however, on February 18, 1875, by making the provisions of the "Naturalization" title of the Revised Statutes "apply to aliens, being free white persons, and to aliens of African nativity and persons of African descent." During the interval between the dates mentioned—June 22, 1874, and February 18, 1875—Chinese were held to be eligible to become citizens of the United States (2), and any Chinaman who may have been admitted to Federal citizenship by any court of competent jurisdiction, between those dates, cannot now be disturbed in the enjoyment of "the immunities and privileges" which admission to citizenship gave him. The action taken by Congress on the 18th of February, 1875, renewed, however, the ineligibility of all persons not white or black, and a native of China, of Mongolian race, has since been denied admission to citizenship by the courts, for the reason that he is not a white person within the meaning of the act (3). This interpretation of the language of the act was clearly in harmony with the intent of Congress; and to set aside all doubt on the subject, Congress subsequently forbid the naturalization of Chinese by either State or Federal

(1) Some of the courts expressed doubt as to the status of the Indian, being inclined to believe that the omission removed *his* disabilities also.

(2) 5 Sawyer, 155.

(3) *Id.*

courts (1). A native of China, of Mongolian race, is, therefore, now absolutely ineligible to citizenship in the United States.

Indians Ineligible.

The Indian, or red man, occupies an anomalous position as regards citizenship. Although a native of the soil, he is not a citizen; nor is he eligible to citizenship in his normal condition; nor can he acquire citizenship when brought within the range of eligibility, by any of the ordinary methods of acquiring it. Being within the territorial limits of the United States, the Indian tribes are not really foreigners. They are, for all that, alien nations and distinct political communities, with whom the United States deal as they see fit, either by treaty (2) made by the President and Senate, or by act of Congress in the ordinary forms of legislation. They are in a state of pupilage, resembling that of a ward to his guardian (3), and as a ward of the nation, the member of an Indian tribe is entitled to a share of the protection which the Federal government casts around all the native tribes domiciled within its dominions. If an Indian shall have severed his tribal relations and assumed the habits and

(1) "Hereafter no State court or court of the United States shall admit Chinese to citizenship."—*Act of Congress, May 6, 1882, 22 Stats. 51.*

Congress was, no doubt, influenced to embrace this prohibition in the act, because some judges had rendered decisions adverse to that of United States Circuit Judge Lorenzo Sawyer in the Ah Yup case.

(2) The United States have ceased to make treaties with Indian tribes.

(3) 5 Pet. 1; 6 Pet. 515; 5 Wall. 737, 761; 21 How., 370; 3 Wall. 407; "er of a provisional government to the nation,"—18 How., 100; 1 McLean, 254; 102 U. S., 147. "Indian tribes are States, in a certain sense, although not foreign States, or States of the United States, within the meaning of the statutes. 17 Wall., 211.

customs of civilized society, he is entitled to many of the rights of a Federal citizen without being one. and without having the power, like other persons (Chinese excepted), of becoming one in the ordinary way. The line of separation between the Indian population and other inhabitants of the United States, is so clear and distinct, that general acts of Congress do not apply to them, unless so expressed as to clearly manifest an intention to include them (1). And this alien and independent condition of the Indian cannot be put off by them at their own will, no matter how strongly and earnestly they may desire it, without the consent of the United States. Prior to 1871, the United States Government dealt with the native tribes as independent nations, and contracted with them by treaty. But on March 3, 1871, Congress passed an act declaring that "no Indian nation or tribe within the territory of the United States shall be recognized as an independent nation, tribe or person with whom the United States may contract by treaty (2)." This act did not, however, invalidate or impair any treaty lawfully made and ratified before that date. The impairment or invalidating of an Indian treaty obligation depends on the performance of some act of hostility toward the United States by the tribe with whom the treaty was made, and a sub-

(1) 5 Peters, 1; 6 Peters, 515; 4 How., 567; 3 Wallace, 407; 5 Wallace, 761; 11 Wallace, 616: 103 U. S., 44; 109 U. S., 556.

(2) No Indian tribe or nation within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe or power with whom the United States may contract by treaty; but no obligation of any treaty law, fully made and ratified with any such Indian nation or tribe prior to March 3, 1871, shall be hereby invalidated or impaired.—*Rev. Stats. U. S., Sec. 2079.*

sequent proclamation by the President (1). The distinctive status of an Indian tribe, as compared with any other class or race of inhabitants in the United States, is forcibly illustrated in the fact that an individual State within whose boundaries the tribe may be settled, has no power over it, nor over any of its members maintaining their tribal relations. Nor do such Indians owe the State any allegiance, and the State can give them no protection (2). How far in the line of descent and admixture with other races the corruption of Indian blood carries with it ineligibility to Federal citizenship, has not been determined. It is certain that a person of half white and half Indian blood is not a "white person" within the meaning of the phrase used in the naturalization laws, and ineligibility to become a citizen of the United States remains in such a person as completely as if he were an Indian of full blood (3).

The adoption of the Fourteenth Amendment to the Federal Constitution, which brought political relief to the negro race, brought no relief to the Indian tribes, for "an Indian tribe within the territory of the United States, is an independent political community, in such a sense, that a child who is a member thereof, though born within the limits of the United States, is not a citizen thereof, because not born subject to the jurisdiction of the United States, and therefore, is not a citizen within the meaning of the

(1) Rev. Stats. U. S., Sec. 2080.

(2) 118 U. S., 375.

(3) 4 Ohio, 353; 11 Id., 372, 377; 12 Id., 23; 6 Fed. Rep., 256; 6 Sawyer, 541; 2 Kent, Com., 72; 1 Sand. Ch., 583; 9 Atty. Gen. op., 353; 7 Atty. Gen. op., 746; 112 U.S., 94.

Fourteenth Amendment of the Constitution (1).” The Circuit Court of the Western District of Arkansas laid down this principle: “ It has been decided that when members of a tribe of Indians scatter themselves among the citizens of the United States, and live among the people of the United States, they are merged in the mass of our people, owing complete allegiance to the government of the United States and of the State where they reside, and equally with the citizens of the United States and of the several States, subject to the jurisdiction of the courts thereof (2). But the application of this principle in this particular case related only to the right of protection of person or property, and not to the broader interpretation of citizenship. Through an abandonment of his tribe, an Indian becomes a member of the body politic known as citizens of the United States only for the purposes of jurisdiction. Senator Carpenter, of the Senate Judiciary Committee, which had been instructed to inquire into the effect of the Fourteenth Amendment upon Indian tribes and treaties, reported to the United States Senate, December 14, 1870, that the Committee was of the opinion “ that the Indian tribes within the limits of the United States and the individual members of such tribes, while they adhere to and form part of the tribes to which they belong, are not, within the meaning of the Fourteenth Amendment, subject to the jurisdiction of the United States ; and, therefore, that such In-

(1) 2 Sawyer, 118 ; 1 Dill., 348.

(2) 5 Dillon, 386.

dians have not become citizens of the United States by virtue of that amendment (1),” from which it might be inferred that the Committee deemed such Indians as have severed their tribal relations do come within the meaning of the amendment. But it has been judicially held that “an Indian born a member of one of the Indian tribes within the United States, which [tribe] still exists, who has voluntarily separated himself from his tribe and taken up his residence among the white citizens of a State, but who has not been naturalized, or taxed, or recognized as a citizen by the United States, is not a citizen of the United States within the meaning of the Fourteenth Amendment of the Constitution (2).” Furthermore, that an Indian born within the United States, has severed his tribal relations, fully and completely surrendered himself to the jurisdiction of the United States, is a *bona fide* resident of a given city, within a given State, is not evidence of United States citizenship under the Fourteenth Amendment of the Constitution (3). To remove the obstacle of ineligibility from the person of Indian birth, it requires something more than the civilizing influences of those already enjoying citizenship, and there is no act which he can perform that will make him eligible. “An Indian cannot make himself a citizen of the United States without the consent and co-operation of the government. The fact that he has abandoned his nomadic life or tribal relations and adopted the habits and manners

(1) 1 Dillon, 348, note.

(2) 112 U. S., 94.

(3) 112 U. S., 94.

of civilized people, may be good reason why he should be made a citizen of the United States, but does not of itself make him one. To be a citizen of the United States is a political privilege which no one, not born to, can assume without its [government's] consent in some form (1).'' Indians cannot be naturalized as "aliens, being free white persons, and aliens of African nativity and persons of African descent," can be naturalized. "The general statutes of naturalization do not apply to Indians, but they may be naturalized by special act of Congress, or by treaty (2).'' Nor does an Indian become a citizen of the United States by being declared an elector by any one of the States (3). To become citizens they must comply with some treaty providing for their naturalization, or come under the direct operation of some statute authorizing individuals of special tribes to assume citizenship by due process of law (4). In the latter way, an Indian, after severing his tribal relations, may become a citizen by Congress conferring citizenship upon him. But he cannot become a citizen unless the government gives its consent in some form (5).

The Wyandotts, the Pottawatomies, the Ottawas, the Delawares, the Miami, the Peoria and various tribes in Kansas, have been endowed with Federal citizenship through the agency of treaties negotiated with them by the United States, and their tribal identity and their polit-

(1) 6 Sawyer, 406.

(2) 7 Atty. Gen. op., 726.

(3) 2 Id.

(4) 6 Wallace, 83; 1 Dillon, 344.

(5) 6 Sawyer, 406.



ical disability disappeared at the same time by their absorption into the body-politic as Federal citizens, equipped with the right to the enjoyment of all their "immunities and privileges." Some of the Sioux tribes, the Winnebagos, the Brothertown and the Stockbridge Indians, have been granted Federal citizenship by special acts of Congress duly naturalizing them. Since the passage of the act of March 3, 1871, the treaty-making power with Indian tribes has ceased, and the naturalization of Indians by that process is no longer possible.

But, although ineligible to Federal citizenship, except by some special act of government removing his disability, the Indian is qualified to hold office. He is not disqualified from holding even so important an office as that of Chief of Bureau, under the Constitution and laws of the United States (1). Full blood Indians have held important offices in some of the States, although their ineligibility to State or Federal citizenship had never been removed (2), and their right to hold such offices was not disputed. An Indian has, also, the statutory right of a freeholder, under existing treaties with his tribe, provided he severs his tribal relations.

Whenever any Indian, being a member of any band or tribe with whom the Government has or shall have entered into treaty stipulations, being desirous to adopt the habits of civilized life, has had a portion of the land belonging to his tribe allotted to him in severalty, in pursuance of such treaty stipulations, the agent and superintendent of such tribe shall take such measures, not inconsistent with law, as may be necessary to protect such Indian in the quiet enjoyment of the lands so allotted to him.—*Rev. Stats. U. S., Sec. 2119.*

(1) 13 Atty. Gen. op., 27.

(2) Full blood Cherokees have held the office of Sheriff in California, where the qualifications of an elector is the same as that of a Federal citizen.

But, in thus becoming an independent freeholder, and in thus severing his tribal relations, he does not acquire the "immunities and privileges" of Federal citizenship (1).

Alien Criminals Ineligible.

Persons of foreign birth and allegiance, who cannot prove good moral character during their probationary residence in the United States, or who, during any period of their residence in the country before the five years required by law to establish a residence qualification for naturalization purposes, have been convicted of crime, or have openly violated the penal laws of the land, are ineligible to citizenship (2).

FORFEITURE OF FEDERAL CITIZENSHIP.

Federal citizenship may be forfeited by an unlawful act of the holder.

Desertion from the army or navy of the United States is a forfeiture of all the rights and benefits of citizenship. But the disbandment of the Union forces by land and sea, at the close of the War of the Rebellion, made it necessary to cover, by special enactment, premature abandonment of the naval or military service, so as to save the constructive deserter from outlawry and its consequences. Congress, therefore, decreed:

(1) An Indian ineligible to Federal citizenship may, however, be admitted to practice at the bar of the Federal Courts. Hiram Chase, an Indian of full blood, belonging to the Omaha tribe, was admitted to practice in the United States Circuit Court of Nebraska, at Omaha November 10, 1891, by Judge Elmer S. Dundy.

(2) 5 Sawyer, 195; 18 Abb. Law J., 153; 6 F. R., 293. (see, also, note, p. 17.)

All persons who deserted the military or naval service of the United States and did not return thereto to report themselves to a provost-marshal within sixty days after the issuance of the proclamation by the President, dated the 11th day of March, 1865, are declared to have voluntarily relinquished and forfeited their rights of citizenship, as well as their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof.—*Rev. Stats. U. S., Sec. 1996.*

Exceptions were made in favor of him who abandoned the military or naval service on the virtual close of the war and the expiration of the term of his enlistment, without lawful authority, the presumption being in his favor that such abandonment was not intended to defraud, and did not defraud the country of any of the service he owed it under the terms of his enlistment. Such a person, although technically a deserter, not having received his regular discharge, was specially relieved of the disability which his desertion imposed upon him, and Congress decreed, as follows:

No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred under the preceding section [1996], by the loss of citizenship and the right to hold office, in consequence of his desertion.—*Rev. Stats. U. S., Section 1997.*

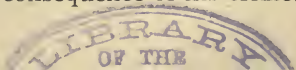
But for the proper government of the army and navy of the United States, wilful desertion of a member of either service is an act which deprives him of all "immunities and privileges of Federal citizenship." And evasion of a draft for military or naval service has the same effect.

Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service, lawfully ordered, shall be liable to all the penalties and forfeiture of section 1996.—*Rev. Stats. U. S., Sec. 1998.*

Conviction of an infamous crime operates as a forfeiture of the "immunities and privileges" of citizenship.

[What constitutes an infamous crime does not appear to have been, at any time, clearly defined. The general proposition that any offence which would induce the infliction of the death penalty on the offender, or result in his consignment to the penitentiary, is not satisfactory, for it is not general in its application. And the definition given by Bouvier—"a crime which works infamy on one who has committed it"—is too indefinite altogether and needs further explanation. The same authority defines "infamy" as "That state which is produced by the conviction of a criminal and the loss of honor." The crime which renders the infamous person incompetent as a witness.—Treason, *6 Mod.*, 16, 74; Felony, *2 Bulstr.*, 154; *Coke*, *Litt.*, 6; *1 T. Raym.*, 364; Receiving Stolen Goods, *7 Metc., Mass.*, 500 (but obtaining goods under false pretences does not impair his competency as a witness, *11 Metc., Mass.*, 302); all offences founded in fraud and which come within the general notion of the *crimen falsi* of the Roman law, *1 Leach*, 496; as perjury and forgery, *Coke*, *Litt.*, 6; *Fost.*, 209; piracy, *2 Rolle Abr.*, 886; swindling, cheating, *Fost.*, 209; barratry, *2 Salk.* 690; conspiracy, *1 Leach Co. cor.*, 442; bribing a witness to keep out of the way to get rid of his evidence, *Fost.*, 208; falsehood, *1 Greenleaf Evid.*, *Sec.* 373." But whether or not, in all of these offenses, a conviction would deprive one of his citizenship, is doubtful. Treason, murder, robbery, theft, bribery, perjury, piracy, arson, rape, are recognized as infamous crimes (although theft is subject to qualification in the matter of degree, for which the person convicted would be forfeiting his "immunities and privileges" as a citizen. The Constitution of Connecticut classifies the following offenses as infamous crimes: Bribery, forgery, perjury, duelling, fraudulent bankruptcy, theft, or other offenses for which an infamous punishment is inflicted," and any person convicted of one of them lost his privileges as an elector.—*See Const. Conn., Art. VI, Sec. 3.]*

In some States the criminal offenses which deprive the person committing either of them of his citizenship, are specifically stated. Any person convicted of an infamous crime is no longer worthy of citizenship, for he has undermined the very foundation of the social fabric which it is the sacred object of citizenship to protect and strengthen. He is, therefore, outlawed by society. Pardon, however, saves the offender. A convicted felon, who may have served part of the term of servitude to which he was sentenced, but to whom executive clemency is extended and pardon granted, is restored, civilly and politically, to his former status as a citizen, no matter what may be the social ostracism he suffers in consequence of his crime.



The effect of the pardon is, however, only prospective, not retrospective. It neither changes the past nor annihilates the fact of the offense (1). The fact remains that the person pardoned was guilty of the crime, notwithstanding the pardon (2). Pardon restores the offender to citizenship simply "because it releases the punishment and blots out of existence the guilt, so that, in the eyes of the law, the offender is as innocent as if he had never committed the offence (3)."

But a convict who is restored to his liberty by reason of the natural expiration of his sentence, is forever stripped of all the immunities and privileges of citizenship (4), for one who has so outraged the laws of his country is no longer to be trusted with the precious boon conferred by those laws upon him who respects and obeys them, and nothing can remove his disability except it be an act of the State Legislature, if his conviction was had in a State Court, or an act of Congress, if convicted in a Federal Court. Connecticut adopted a constitutional amendment in 1875, providing that the General Assembly shall have power, by a two-thirds vote of the members of both branches, to restore the privileges of an elector to those who may have forfeited the same by a conviction for crime (5).

(1) 4 Black., 402.

(2) 5 Sawyer, 195.

(3) 4 Wallace; 380.

(4) Colorado, however, furnishes an exception to this rule. Sec. 10, of Art. VII of the Constitution of 1876 restores to citizenship the felon who has served his full term of penal servitude.

(5) *Charters and Constitutions U. S., Const. Conn., Art. XVII, Part 1, 269.*

FORFEITURE BY EXPATRIATION.

Expatriation is a fundamental right, and citizenship may be forfeited by it.

Whereas, the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty and the pursuit of happiness; and, whereas, in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and, whereas, it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the government, thereof; and, whereas, it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore, any declaration, instruction, opinion, order, or decision of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic.--*Rew. Stats. U. S., Sec. 1999.*

Congress thus declared itself for the protection of its naturalized citizens against the claims of their mother country which denied the right of its subjects to renounce their allegiance. But the rule which was thus laid down by Congress to defend naturalized American citizens against the claim of foreign governments upon their allegiance, operates also as a defense of the right of any American citizen to change his allegiance at his pleasure, by expatriation. A naturalized citizen of the United States may thus resume his original citizenship under the conditions required of the country of his nativity (1). If an American citizen emigrates to a foreign country and renounces his American allegiance, with the view of becoming a subject of the country in which such renunciation is made, it constitutes an act of expatriation (2). But residence in a foreign country and an intent not to return to the United States, while essential elements of

(1) 31 F. R., 106.

(2) 14 Atty. Gen. op., 295.

expatriation, are not sufficient to constitute it (1). These acts must be followed by naturalization before expatriation is complete. If, however, in addition to residence and an intent to remain, acts should be committed, or expressions made which would, in effect, amount to a renunciation of United States citizenship and a willingness to submit or adopt the obligations of the country in which the person concerned resides, such as the acceptance of public employment, or engaging in the military service of the country, these acts may be treated by the Federal Government as expatriation, without actual naturalization (2). It has been held, however, that a woman born in the United States, of Federal citizens, who married a foreigner residing in the United States, and who never became a citizen thereof, and who subsequently moved with her child (also born in the United States) to the country of her husband's allegiance, where she remained until her husband's death, is still a citizen of the United States, and so also is her child (3).

II. STATE CITIZENSHIP.

Federal citizenship is one thing; State citizenship is another. A person may be a citizen of the United States and not a citizen of any particular State (4). This proposition is susceptible of reversal. A person may be a

(1) 9 Atty. Gen. op., 359.

(2) 14 Atty. Gen. op., 295.

(3) 10 Atty. Gen. op., 321.

(4) 2 Blatchford, 162.

citizen of a particular State and not a citizen of the United States. There is in our political system a government of each of the several States and a government of the United States. Each is distinct from the other and has citizens of its own, who owe it allegiance and whose rights, within its jurisdiction, it must protect. The same person may be at the same time a citizen of the United States and a citizen of a State, but his rights of citizenship under one of these governments will be different from those under the other (1). The government of the United States, although it is within the scope of its powers supreme and beyond the States, can neither prevent nor secure to its citizens rights or privileges which are not expressly or by implication placed under its jurisdiction. All rights or privileges that cannot be so granted or secured are left to the exclusive protection of the States (2). It is State citizenship and not Federal citizenship that gives the holder a right to vote. The Constitution of the United States does not guarantee a citizen the right to vote. That right depends entirely upon the laws of the State in which the citizen resides (3), and it may be given under these laws (as it is in many States) to persons who are not citizens (4) and to persons ineligible to citizenship (5). While the

(1) 3 Hughes, 13.

(2) 92 U. S., 542.

(3) 1 Hughes, 448; 3 Hughes, 456.

(4) Each State, in the exercise of its loyal and reserved sovereignty, may place foreigners or other persons on a footing with its own citizens as to political rights and privileges to be enjoyed within its dominion.—19 How., 393. See, also, the chapter on "Voting Qualifications in the Several States."

(5) Such as Indians who have severed their tribal relations, but who have not been admitted to citizenship by act of Congress.

Federal Constitution assumes to give the citizen of one State the right to enjoy "all privileges and immunities of citizens of the several States," there are special rights and privileges which this constitutional provision cannot effect—rights and privileges whose enjoyment depends upon actual residence within the State, such as the "right to vote, to have the benefit of the exemption laws, to take fish in the waters of the State, and the like (1)." "And the right to hold office (2)." It is in this way that the State of Virginia, for illustration, exercises jurisdiction over its oyster fisheries, for the benefit of its own citizens, and to the entire exclusion of the citizens of other States (3). The privileges and immunities secured under the Federal Constitution relates to the right to go into any State and carry on business there, to hold property and to be protected like the citizens of the State in their rights; the right to enforce personal privileges, and to be exempt, in property and person, from taxes or burdens which the property or persons of the same State are not subject to (4), and to hold, enjoy and devise or inherit real estate in any other State (5).

(1) *Cooley's Constitutional Limitations*, 4th Ed., p. 498.

(2) 2 *Paine*, 501.

(3) 94 *U. S.*, 391.

(4) A law imposing a license fee upon drummers for selling imported goods, which is not required of agents selling goods manufactured in the State, is invalid. *Chicago Legal News* (U. S. S. Ct.), 217, March 19, 1887; 91 *U. S.*, 275; 92 *U. S.*, 259; 95 *U. S.*, 465; 102 *U. S.*, 196; 103 *U. S.*, 344; 118 *U. S.*, 557; 9 *Wheat.*, 1; 7 *How.*, 283; 12 *How.*, 299; 6 *Wall.*, 35; 12 *Wall.*, 418; 15 *Wall.*, 232.

(5) 4 *Wash.*, 380.

Residence is an essential element in the acquirement of

State citizenship. But residence does not always give it; for a soldier may be quartered within a State, and a resident thereof, in so far as being within its territorial boundaries is concerned, and yet not be a citizen of the State, because military posts and reservations, forts and arsenals are under Federal and not under State jurisdiction. State citizenship, therefore, implies not only residence within the territorial limits or dominion of the State, but being under its jurisdiction also.

Nor is a person necessarily a citizen of a State because he is a resident within its dominion, and, so far as the place of his residence is concerned, under its jurisdiction. The establishment of one's domicile in a State may be *prima facie* evidence that he is a citizen of the State, but it is not conclusive (1). State citizenship results from both an act and an intent (2). No one can become a citizen of any State of the Union by merely intending to become one. Nor can one become a citizen of a State by residence in it without or contrary to his intent to become a citizen (3). But when the act and the intent are in harmony, and both are consummated for the end of acquiring State citizenship, State citizenship is acquired. Under such a condition, it is reasonable to presume that "citizenship in a State is made by residence and without reference to the consent of the State (4)."

The Federal Constitution, in defining what constitutes

(1) 10 Sawyer, 666.

(2) 11 Sawyer, 291.

(3) 11 Sawyer, 291; 26 F. R., 337.

(4) 16 Wallace, 36.

Federal citizenship, also defines the manner in which a Federal citizen acquires State citizenship. Any person born or naturalized in the United States and subject to its jurisdiction, is a citizen thereof *and of the State in which he resides* (1). But the majority of the State Constitutions are, singularly enough, lacking a specific definition of what constitutes State citizenship. This hiatus is similar to that which originally existed in the Federal Constitution. That instrument, prior to the adoption of the Fourteenth Amendment, lacked a specific definition of what constitutes citizenship of the United States. As a rule, the Constitutions of the several States leave the status of State citizenship to be determined by the qualifications of an elector. But this is reliable only when State citizenship is considered politically (2). It may be entirely at fault when considered from the standpoint of civil rights, for a person may be incapable of exercising the right of suffrage or of enjoying any other political privilege in the gift of a State, and yet be, civilly, a State citizen in the full meaning of the term.

In the "Declaration of Rights" of the Constitution of Alabama, it is declared "that all persons resident in this State, born in the United States, or naturalized, or who shall have legally declared their intentions to become citizens of the United States, are hereby declared citizens of

(1) XIV Amendt. U. S. Const., Sec. 1; 5 McCrary, 73; 15 F. R., 689.

(2) It was not always reliable. The Constitution of Georgia, 1868, for instance, gave the right of suffrage to aliens who were not citizens of the State. See Charters and Constitutions U. S., Part I, 411, 413.

the State of Alabama, possessing equal civil and political rights (1).”

The Constitution of Georgia, of 1868, in its “Declaration of Fundamental Principles,” said: “All persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State.” The same Constitution extended the elective franchise to male foreign subjects who had legally declared an intention to become citizens of the United States, thereby creating the curious political nondescript of a qualified voter who was neither a Federal citizen nor a State citizen (2). On the 5th of December, 1877, the people of Georgia adopted a new Constitution which reaffirmed the Constitutional definition of State citizenship of 1868, although expressing it a little differently, as follows: “All citizens of the United States, resident in this State, are hereby declared citizens of this State (3).” This new Constitution also banished the political nondescript of 1868, by restricting the elective franchise to “male citizens of the United States (4),” thus producing, in Georgia, perfect harmony between State and Federal citizenship.

The Louisiana Constitution of 1868 made “all persons, without regard to race, color, or previous condition, born or naturalized in the United States, and subject to the

(1) Const. of Ala., 1875; Art. I, Sec. 2; Charters and Constitutions U. S., Part I, 76.

(2) Const. of Ga., 1868, Art. I, Sec. 2; Id., Art. II, Sec. 2; Charters and Constitutions U. S., Part I, 411, 413.

(3) Const. Ga., 1877, Art. I, Sec. I, Par. XXV; Code of Ga., 1882, Sec. 5017, p. 1291.

(4) Const. of Ga., 1877, Art. II, Sec. I, Par. II; Code of Ga., 1882, Sec. 5032, p. 1294.

jurisdiction thereof, and residents of this State one year," citizens of the State (1). Only resident Federal citizens were, therefore, eligible to State citizenship under this provision. The right of suffrage was also restricted to such Federal citizens (2). In 1879, a new Constitution was, however, adopted, which contains no definition of State citizenship, and which extends the right of suffrage to any alien who may have legally declared his intentions to become a citizen of the United States, "before he offers to vote," provided he has acquired the prescribed residence qualification (3), and such alien elector is privileged to sit as a member of the lower house of the State legislature (4).

The constitutional bill of rights of Mississippi declares that "all persons resident in this State, citizens of the United States," are "citizens of the State of Mississippi (5)," and the constitutional right of suffrage is limited to Federal citizens also (6).

The Constitutions of all other States in the Union are silent on the subject of what constitutes State citizenship within their respective jurisdictions.

(1) Const. La., 1868, Title I, Art. 2; Charters and Consts. U. S., Part I, 755.

(2) Const. of La., 1868, Title VI, Art. 98; Charters and Consts. U. S., Part I, 765.

(3) Const. of La., 1879, Art. 185.

(4) Const. La., 1879, Art. 22.

(5) Const. of Miss., 1868, Art. I, Sec. 1; Charters and Consts. U. S., Part II, 1081.

(6) Const. of Miss., 1868, Art. VII, Sec. 2; Charters and Consts. U. S., Part II, 1089.

THE RIGHT OF SUFFRAGE.

The right of suffrage or elective franchise is the greatest privilege which a citizen can enjoy by right of birth or inheritance, or which an alien can acquire by investiture. It is a privilege which the Federal Constitution does not, however, confer on any one (1). A person may be a Federal citizen by the right of birth, or by inheritance, or by naturalization, and yet not enjoy the right of suffrage. The right of voting does not necessarily constitute a part of citizenship in any form; for, if it did, then the citizens of each State would be entitled to vote in the several States precisely as their citizens are entitled to vote (2), notwithstanding that the qualifications of a voter in one State might differ from those of a voter in another State. The right, or rather the privilege, of voting arises under the Constitution of the State in which it may be exercised, and not under the Constitution of the United States (3). It is the State's prerogative to define

(1) 21 Wall., 162.

(2) *Id.*

(3) The regulation of the suffrage is conceded to the States as a State right.
11 Blatchford, 200.

"Naturalization does not confer on the individual naturalized the right to vote. The qualifications which an elector is required to have, in Congressional elections, depend entirely upon the laws of the State in which the elective franchise is exercised, and are purely dependent upon the municipal regulations of the State. It is not necessary to determine whether the voter is a citizen of the United States."—2 *Scam.* (3 *I.L.*), 377.

the qualifications of a voter (1); and each State fixes the qualifications of its own voters, according to its own whims, conveniences or necessities, but it cannot meddle with the qualifications of voters as defined by any sister State. With this power, Congress has never interfered; and although Congress may, at any time, make or alter such regulations (2), it has, so far, confined itself to defining the qualifications of voters within the Territories and to modifying the right of suffrage of members of the army or navy, wherever they may be stationed or may have acquired residence.

THE POWER OF STATES.

The power which a State may exercise in determining the qualifications of its voters is almost without limit.

(1) "It is a common error to connect the elective franchise inseparably with citizenship, as if elector and citizen were convertible terms. In regard to the persons who shall exercise this franchise in each State, it is determined entirely by the Constitution and laws of the State. They may confer the privilege on aliens, negroes, Indians, women and children. Even in regard to the choice of Representatives in Congress and Electors of President of the United States, the Federal Constitution leaves the matter entirely in the hands of the State."—*1 Sharwood's Bl. Com.*, 376, note.

"The United States rights appertaining to this subject are those [1st] under Article I, Section 2, subdivision 1, of the United States Constitution, which provides that electors of Representatives in Congress shall have the qualifications requisite for electors of the most numerous branch of the State Legislature; and [2d] under the Fifteenth Amendment, which provides that the right of citizens of the United States to vote shall not be denied or abridged by the United States or any State, on account of race, color or previous condition of servitude. If the Legislature of a State should require a higher qualification in a voter for a Representative in Congress than is required for a voter for member of the House of Assembly of the State, this would, I conceive, be a violation of a right belonging to a person as a citizen of the United States. That right is in relation to a Federal subject or interest, and is guaranteed by the Constitution."—*11 Blatchford*, 200.

Congress has no power to legislate on the subject of voting at State elections, except under the Fifteenth Amendment, and such power can be exercised by providing a punishment only where the wrongful refusal to receive the vote of a qualified elector at such elections is because of his race, color or previous condition of servitude.—*Gould & Tucker's Notes on Rev. Stats. U. S.*, Sec 480.

(2) 21 Wall, 162.

It may go to some extraordinary extremes. It may declare, without any violence of any right derived under the Federal Constitution, that no person shall be entitled to vote until he shall have reached a given age, and it may deprive him of the right to vote after he has reached another given age; or it may declare that any person having gray hair or who does not have the use of all his limbs shall not enjoy the right to vote (1). It can establish an educational or property qualification, and it can restrict the right to either sex or give it to both sexes. It may give foreigners the right to vote, and it may extend the privileges to persons who are, under any of the ordinary rules, ineligible to Federal citizenship, and the power has been so exercised in several of the States. But a State cannot exclude any one from the enjoyment of the elective franchise on account of "race, color or previous condition of servitude," provided such person is a Federal citizen.

ALIENS AS VOTERS.

It is a popular error to suppose that the right of suffrage is limited to citizens throughout the United States. In some States, it is; in others, it is not and never has been. [When the Federal Constitution was adopted, every one of the thirteen original States (Rhode Island and Connecticut excepted) had its Constitution. The two States excepted acted under Charters granted by the British Crown. Each State then determined for itself

(1) 11 Blatchford, 200.

who, within its confines, should have the right to vote. It was limited in New Hampshire to "every male inhabitant of each town and parish with town privileges and places unincorporated in the State, of twenty-one years of age and upwards, excepting paupers and persons excused from paying taxes at their own request;" in Massachusetts, to "every male inhabitant of twenty-one years of age and upwards having a freehold estate within the commonwealth of the annual income of three pounds, or any estate of the value of sixty pounds;" in Rhode Island, to such "as are or hereafter shall be admitted and made free of the company and society" of the colony; in Connecticut, to such persons as had "maturity in years, quiet and peaceable behavior, a civil conversation and forty shillings freehold or forty pounds personal estate," if so certified by the selectmen; in New York, to "any male inhabitant of full age who shall have personally resided within one of the counties of the State for six months immediately preceding the day of election * * if during the time aforesaid he shall have been a freeholder, possessing a freehold of the value of twenty pounds within the county, or have rented a tenement therein of the yearly value of forty shillings and been rated and actually paid taxes to the State;" in New Jersey, to "all inhabitants * * * of full age who are worth fifty pounds proclamation-money, clear estate in the same, and have resided in the county in which they claim a vote for "twelve months immediately preceding the election;" in

Pennsylvania to "every freeman of the age of twenty-one years, having resided in the State two years next before the election and within that time paid a State or county tax which shall have been assessed at least six months before the election ;" in Delaware and Virginia, "as exercised by law at present ," in Maryland, to "all freemen above twenty-one years of age, being a freeholder of fifty acres of land in the county in which they offer to vote and residing therein, and all freemen having property in the State above the value of thirty pounds current money, and having resided in the county in which they offer to vote, one whole year next preceding the election ;" in North Carolina, for senators, to "all freemen of the age of twenty-one years who have been inhabitants of any one county within the State twelve months immediately preceding the day of election, and possessed of a freehold within the same county of fifty acres of land for six months next before and at the day of election," and for members of the house of commons, to "all freemen of the age of twenty-one years who have been inhabitants in any one county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes ;" in South Carolina, to "every free white man of the age of twenty-one years, being a citizen of the State and having resided therein two years previous to the day of election and who hath a freehold of fifty acres of land, or a town lot of which he hath been legally seized and possessed at least six months before such election, or (not having such free-

hold or town lot), hath been a resident within the election district in which he offers to give his vote six months before said election, and hath paid a tax the preceding year of three shillings sterling toward the support of the government ;” in Georgia, to every male white inhabitant of the age of twenty-one years, possessed in his own right of ten pounds value, liable to a State tax, or a mechanic, and six months resident in the State.

After the adoption of the Federal Constitution, the same independence of action was exercised by each new State as it framed the Constitution on which it obtained admission to the Federation. In each of the three Constitutions adopted by Vermont, in 1777, 1786 and 1793, respectively, the “privileges of a freeman of the State.” in other words, a “a voter,” were conferred upon “every man of the full age of twenty-one years,” who had resided in the State one year “before the election of representatives,” and was of “a quiet and peaceable behavior.” Kentucky gave it to “all free male citizens of the age of twenty-one, having resided in the State two years, or in the county in which they offer to vote one year next before election.” North Carolina gave it to “every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this State, and every freeman being an inhabitant of any one county in the State six months immediately preceding the day of election.” Ohio gave it to “all white male inhabitants above the age of twenty-one years, having resided in the State one year next

preceding the election, and who have paid, or are charged with a State or county tax." In Louisiana, it was granted to "every free white male citizen of the United States who, at the time being, hath attained to the age of twenty-one years, and resided in the county in which he offers to vote for one year next preceding the election, and who in the last six months prior to the said election shall have paid a State tax, * * * provided, however, that every free white male citizen of the United States who shall have purchased lands from the United States shall have the right of voting wherever he shall have the other qualifications of age and residence above prescribed." Indiana granted it to "every white male citizen of the United States of the age of twenty-one and upwards who has resided in the State one year immediately preceding such election," and it subsequently gave it to "every white male of twenty-one years and upwards who shall have resided in the United States one year, and shall have resided in this State during the six months preceding such election and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization." Mississippi restricted it to "every free white male person of the age of twenty-one years or upwards who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the county, city or town in which he offers to vote, and shall be enrolled in the militia

thereof, except exempted by law from military service ; or, having the aforesaid qualifications of citizen and residence, shall have paid a State or county tax." Illinois gave it to "all white male inhabitants above the age of twenty-one years, having resided in the State six months next preceding the election ;" Alabama to "every white male citizen" of the United States, of twenty-one years of age, who had resided one year in the State next preceding an election, "and the last three months within the county, city or town in which he offers to vote ;" Maine, to "every male citizen of the United States, of the age of twenty-one years and upwards, excepting paupers, persons under guardianship and Indians not taxed," having a three months' residence in the State ; Missouri, to "every free white male citizen of the United States, who shall have attained the age of twenty-one years," and resided a year in the State and three months in the county or district in which he offers to vote ; Arkansas, to "every free white male citizen of the United States," twenty-one years of age, and resident in the State six months ; Michigan, to "every white male citizen above the age of twenty-one years, having resided in the State six months next preceding any election, * * * and every white male inhabitant of the age aforesaid" residing in the State at the time of the signing of the Constitution ; Florida, to "every free white male person of the age of twenty one years and upwards, and who shall be, at the time of offering to vote, a citizen of the United States," two years a resident in the State and six months

“in the county in which he may offer to vote, and who shall be enrolled in the militia thereof,” unless exempted * * * except in elections by general ticket in the State or district prescribed by law ; in which case the elector must have been a resident of the State two years next preceding the election and six months within the election district in which he offers to vote ;” Texas, to “every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, or who is at the time of the adoption of this Constitution by the Congress of the United States a citizen of the republic of Texas and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city or town in which he offers to vote (Indians not taxed, Africans and descendants of Africans excepted),” and “all free male citizens over the age of twenty-one years (Indians not taxed, Africans and descendants of Africans excepted),” who resided in Texas six months before Congress accepted the Constitution ; Iowa, to “every white male citizen of the United States” of twenty-one, who had a six months’ residence in the State and sixty days’ residence in the county in which he offered to vote ; Wisconsin, to every male white citizen of the United States, white person of foreign birth who shall have declared his intention to become a citizen, person of Indian blood made a Federal citizen by act of Congress, and every civilized person of Indian descent who maintains no tribal relations ; California, to “every white male citizen of the

United States and every white male citizen of Mexico" who had elected to become a citizen of the United States under the provisions of the treaty of Queretaro, twenty-one years of age, six months a resident of the State and thirty days a resident of the county or district in which he claimed his vote, reserving the right to the Legislature to admit to the right of suffrage, by a two-thirds vote, "Indians or descendants of Indians;" Minnesota, to every male person of twenty-one, who had resided in the United States one year, in the State four months next preceding any election, and in the election district ten days, and who was either a white citizen of the United States, or a white person of foreign birth, who had regularly declared his intention to become a citizen, or a person of mixed white and Indian blood who had "adopted the customs and habits of civilization," or a person of Indian blood residing in the State who had adopted "the language, customs and habits of civilization," and, after examination before a District Court in the State, had been declared capable of enjoying the rights of citizenship; Kansas, to every white male person twenty-one years of age, of six months residence in the State next preceding any election, and thirty days' residence in the township or ward, a citizen of the United States or a person of foreign birth who has declared his intention to become a citizen; Oregon, to "every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, and

every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election."

The outbreak of the War of the Rebellion introduced new features into the qualifications of voters in the admission of new States. West Virginia, the first of the States thus admitted, gave the right of suffrage to "the white male citizens of the State," excepting, however, minors, persons of unsound mind, paupers, persons "under conviction of treason, felony, or bribery in an election," and persons "who have not been residents of the State one year and of the county in which he offers to vote thirty days next preceding such offer;" Nevada, to "every white male citizen of the United States who was not laboring under the disabilities created by participation in the Rebellion, or who was not an idiot or insane, having been an actual, not a constructive, resident in the State six months and thirty days in the district or county next preceding the election;" Nebraska, to every white male citizen of the United States, and white male person of foreign birth who had declared his intention to become a citizen, and who had "resided in the State, county, precinct and ward for the time provided by law;" Colorado, to all male persons over twenty-one years of age who were Federal citizens, or persons of foreign birth, who

had declared their intention to become citizens at least four months before offering to vote, and who had resided in the State six months immediately preceding the election at which they offered to vote, "and in the county, city, town, ward or precinct, such time as may be prescribed by law," and women were given the right to vote at school district elections and to hold school district offices on equal grounds with men (1). Wyoming, the two Dakotas, Idaho, Montana and Washington, are the latest additions to the sisterhood of States. Wyoming has granted the elective franchise to citizens of the United States only, irrespective of sex, and requires a residence and educational qualification. North Dakota has admitted to the right of suffrage all male Federal citizens, and male foreigners who have declared their intentions, and civilized Indians who have severed their tribal relations. South Dakota has admitted male citizens of the United States, and those of foreign birth who have declared their intentions to become citizens; and women may vote at any election held solely for school purposes, and may hold any office in the State, "except as otherwise provided for in the Constitution." Washington and Montana gave the elective franchise to male Federal citizens, and those who were qualified electors in those Territories; Idaho to male Federal citizens of six months residence.

INTENT OF THE FRAMERS OF THE CONSTITUTION.

In the organization of each of the original States forming the Federation, there was a wonderful lack of har-

(1) Charters and Constitutions U. S.

mony and uniformity as to the qualifications of their respective voters. The framers of the Federal Constitution seemed to realize the inconvenience and incongruity of such a political condition, and, so far as they were able to do so, without trespassing upon the sovereignty of the States in severalty, endeavored to furnish a remedy, by making two provisions in the organic law which, it was reasonable to presume, would influence future legislation in each State, and ultimately bring about an uniform electoral standard and an uniform standard of State and Federal citizenship. One of these provisions was the authority conferred upon Congress "to establish an uniform rule of naturalization (1)," and the other requiring that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature (2)." If it was the aim and intent of the framers of the Federal Constitution to bring about, through these measures, uniformity in the elective standard and the standard of citizenship, it has failed. The States have, each in its own way, gone on establishing or modifying the qualifications of electors to suit their own fancies, with little, if any, consideration or regard for electoral uniformity, or for the national welfare, in so far as it may be directly affected or influenced by such qualifications. Local conditions have had a greater influence than anything else in determining the status of

(1) Constitution of the U. S., Art. I, Sec. 8.

(2) *Id.*, Art. I, Sec. 2.

As aliens are, in many of the States, qualified electors of members of the Legislature, they are, therefore, privileged to vote for Presidential Electors and Congressmen.

electors. Some of the States adopted Federal citizenship as the chief qualification of a voter. A given term of residence and maturity of years were other features deemed essential to an intelligent exercise of the right of suffrage. But in many of the States, the standard of Federal citizenship has been abandoned, and the idea conveyed in the Constitutional provision for the adoption of "an uniform rule for the naturalization of aliens," to fit them for Federal citizenship, has been totally ignored and set aside in fixing the qualifications of electors.

POWERS EXERCISED BY ALIENS.

In such States an alien, whose allegiance is due to a foreign government, who cannot claim the protection of the Federal Government, and who enjoys none of the rights of American citizenship acquired by birth or inheritance, or with which he may be invested by naturalization, is, at the ballot box, in local, State and Federal elections, just as powerful and influential as the native or naturalized citizen whose allegiance, interests and, it is presumed, instincts are joined, by the strongest of bonds, to the existence and welfare of the American nation. In New Hampshire, for instance, "every male inhabitant of each town and parish, with town privileges, and of late unincorporated," in the State, who is not a pauper or a person "excused from paying taxes at his own request," and is twenty-one years of age, is a qualified elector, without regard to the place of his nativity, to the question of naturalization, or

to his intention, or to the length of time of his residence (1). The sole qualifications of an elector in New Hampshire are residence, the payment of taxes, and the attainment of the age of twenty-one. The right to exercise the elective franchise in that State carries with it, also, the right to hold office: "And every person, qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish, and plantation where he dwelleth and hath his home (2)." The Constitution of Illinois, of 1848, gave the right of suffrage to "every white male inhabitant" of the age of twenty-one, and "a resident of the State at the time of its adoption;" and the Constitution of 1870, ratified and confirmed the right of suffrage which an alien inhabitant had acquired under the Constitution of 1848, although establishing new qualifications for electors who, subsequent to that date, desired for the first time to exercise the right of voting. The question of national allegiance cuts no figure in the status of an elector under the Constitution of 1848. And the Constitution of 1870 did not disturb it. Therefore, the subject of a foreign government, who had been given the elective franchise in 1848, by virtue of his residence in the State at the time of the adoption of the Constitution, retained the franchise without surrendering his foreign allegiance or taking any steps toward surrendering it.

(1) Const. of N. H., 1792, Part II, Sec. 28.

(2) Const. of N. H., 1792, Part II, Sec. 30.

INDIANS AS VOTERS. ✓

Indians, although ineligible to Federal citizenship by any ordinary process of political acquirement (see p. 42), may enjoy State citizenship and the rights and privileges pertaining to it (the right of suffrage included) in many of the States. But it rests with the State alone to determine whether or not he shall be vested with its citizenship and the right of suffrage, for although the members of an Indian tribe may occupy territory within the limits of a State they are not citizens thereof, nor are they necessarily under its jurisdiction. An Indian does not, however, become a citizen of the United States when a State confers on him the right to vote (1). See p. 47,

In some States, an Indian is a qualified voter if he is a tax-payer, Indians *not* taxed being classed among idiots and insane and other incompetents, as persons not qualified. The Constitutions of some States expressly stipulate that no Indian shall have the right to vote unless he has severed his tribal relations, has adopted the habits and customs and language of civilization, and is a tax-payer. But the Seminoles of Florida preserved their tribal existence and enjoyed the right of suffrage and the privilege of special representation in the State Legislature, under the provisions of the Constitution of 1868. Under the same Constitution, the State Legislature imposed taxes on the Seminoles, which constituted them citizens of the State on a par with other citizens, but this

(1) 7 Atty. Gen. op. 726.

legislative act barred them thereafter from special representation in the State Legislature. The Constitution of 1885 makes, therefore, no race distinction in defining the qualifications of electors. No distinction is made between the races in some of the States, as to citizenship and voting qualifications. But some States positively debar the Indian from either, if he retains any relations with his tribe, or is dependent, in any degree, upon the Federal Government for help or support. The State of South Dakota, at a general election held in November, 1890, adopted the following amendment to the Constitution: "No Indian who sustains tribal relations, receives support in whole or in part from the Government of the United States, or holds untaxable land in severalty, shall be permitted to vote at any election held under this Constitution." In the Constitution of 1849, California provided that Indians and the descendants of Indians might be admitted to the right of suffrage by a two-third concurrent vote of the Legislature, "in such special cases as such a proportion of the legislative body may deem just and proper (1)." But the Constitution adopted in 1879 (now in force) is silent on the subject. North Dakota admits to the right of suffrage "civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election." Of course, all Indians who may have acquired Federal citizenship under a tribal treaty with the Federal Government, or through the agency of a special act of Congress, have the right to

(1) Const. of Cal., 1849, Art. II, Sec. 1.

vote in any State or Territory after compliance with the requirements of its election laws as to other electors, such act of the Government or of Congress being an absolute removal of all disability.

RACE DISTINCTIONS ABOLISHED. ✓

To prevent the dominant race or races in any State interfering with or depriving the members of any other race, previously under political proscription, of the enjoyment of the right of suffrage after acquiring the right of Federal citizenship and complying with the general qualifications of an elector as defined by the State Constitution, the Fourteenth and Fifteenth Amendments to the Federal Constitution were adopted. The Fourteenth Amendment provided a penalty for any denial of the right to vote to any male citizen of the United States, except for crime or rebellion, for Presidential Electors, Federal Representatives, or executive, legislative or judicial officers of the State, by reducing the basis of Congressional representation in the State in the proportion which the number of the male citizens thus denied bear to the whole number of male citizens, twenty-one years of age, in such State. The Fifteenth Amendment goes still further, prohibiting the denial or abridgment by the United States, or any State, of the right to vote of a Federal citizen "on account of race, color or previous condition of servitude." And in accordance with the authority given it by the same amendment, Congress adopted the following provision :

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial sub-

division, shall be entitled to vote at all such elections, without distinction of race, color or previous condition of servitude, any Constitution, law, custom, usage or regulation of any State or Territory, or by or under its authority to the contrary notwithstanding.—*Rev. Stats. U. S., Sec. 2004.*

When, under the authority of the Constitution or laws of any State, or the laws of any Territory, any act is required to be done as a pre-requisite or qualification for voting, and by such Constitution or laws, persons or officers are charged with the duty of furnishing to citizens an opportunity to perform such pre-requisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States the same and equal opportunity to perform such pre-requisite, and to become qualified to vote.—*Rev. Stats. U. S., Sec. 2005.*

These Constitutional provisions and acts of Congress were specially designed for the protection of the emancipated negro; but they also afford protection to all other citizens of the United States belonging to races ineligible to Federal citizenship under existing laws, who have acquired, or may acquire citizenship by some natural or special process, such as by birth within the dominion and under the jurisdiction of the United States, although of ineligible Chinese parents, or by naturalization by treaty or by special act of Congress, although previously ineligible owing to tribal relationship.

WOMAN'S RIGHT TO VOTE.

Only one State in the Federation gives woman the right to vote, namely, Wyoming. The Constitution of that State declares that "the rights of citizens of the State of Wyoming to vote and hold office, shall not be denied or abridged on account of sex (1)." Wyoming is not the first State in the American Federation to try the experiment of "woman suffrage." Woman voted in New Jersey under the first Constitution (2) of that State, which gave the elective franchise to "all inhabitants of

(1) Constitution of Wyoming, Art. VI, Sec. 1.

(2) Constitution of New Jersey (1776) Subd. IV.

the colony, of full age, "who were" worth fifty pounds proclamation-money." In 1793, the legislature of the State passed an act to regulate elections, which provided that "every voter shall openly, and in full view, deposit his or *her* ballot, which shall be a single written ticket containing the names of the persons for whom he or *she* votes (1)." The privilege thus exercised was abolished in 1807 (2), and it has never been restored. The present Constitution, adopted in 1844, restricts the suffrage to "every white (3) male citizen of the United States." Women are, consequently, no longer voters in New Jersey.

In the history of the United States, therefore, only two States have given women the same right to vote as is given to men, and one of those two has since abrogated the right.

It is, however, in the power of the legislature of North Dakota, with the consent of the people, to extend the elective franchise to women in that State. Its Constitution provides that "the legislative assembly shall be empowered to make further extensions of the suffrage hereafter, at its discretion, to all citizens of mature age and sound mind, not convicted of crime, without regard to sex;" but, if the power thus vested in the legislative assembly is exercised, the result must be ratified by a majority of electors voting at a general election, before it can become

(1) *American Citizen's Manual*, 89, 90.

(2) *Id.*

(3) The word "white" was stricken out by Constitutional amendment in 1875.

law. As it is, all women who are citizens of the United States or (if aliens) have declared their intention to become Federal citizens, "may vote for all school officers, and upon all question pertaining solely to school matters, and be eligible to any school office (1)."

The Constitution of the State of South Dakota also gives woman the right to vote "at any election held solely for school purposes, and she may hold any office in the State, except as otherwise constitutionally provided for (2)."

In accordance with a provision in the Constitution (3), an act was passed by the legislature March 6, 1890, submitting to the people of South Dakota, at the general election held in November of the same year, the question of striking out the word "male" from the suffrage article of the Constitution. The object of the act was to determine whether there should be any distinction thereafter between the sexes in the right to vote at all elections in the State. The people rejected the proposed amendment, and women are, consequently, denied the right of voting in South Dakota on all public questions excepting such as pertain solely to schools.

A similar amendment proposed to the Constitution of the State of Washington was also rejected by its electors.

Idaho has given woman the right to vote at any school district election and to hold any school district office.

Montana enlarges the privileges granted woman by

(1) Constitution North of Dakota, Art. V, Sec. 128.

(2) Constitution of South Dakota, Art. VII, Sec. 9.

(3) Id., Art. VII, Sec. 2.

Idaho by qualifying her to hold the office of County Superintendent of Schools and the right, when paying taxes, to vote on all questions submitted to the vote of the taxpayers of the State.

In the city of Boston, women may vote for school committeemen, but for no other public officer; and in many cities in the United States they are eligible to membership on some of the local boards of charities, education, etc.

Women have the same rights in the courts as men. They can also avail themselves of the rights of the homestead law, and other privileges granted citizens. In the sense conveyed in the idea of membership of a nation, women, if born of native-born parents, or parents who have gone through the form of naturalization prescribed by law, are citizens of the United States, but they cannot enjoy the right of suffrage, unless the State, which has exclusive power in the matter, desires to confer it, for the reason that suffrage is not a privilege or an immunity of citizenship as defined by the XIVth Amendment to the Federal Constitution. Therefore, where a State Constitution restricts the right of suffrage to male inhabitants or citizens, it operates as an absolute bar against the enjoyment of the right by woman. And the Supreme Court of the United States has held that the Constitution and laws of the several States that commit the trust of suffrage to men alone are not necessarily void, for the Constitution of the United States does not confer the right on any one (1).

(1) 21 Wallace, 162.

CITIZENS NOT ENTITLED TO VOTE.

The Constitutions of several of the States specially deny the right to vote at an election created thereunder to "every soldier, seaman (1) and marine in the service of the army or navy of the United States," and the act of Congress governing Territorial elections prohibits any "officer, soldier, seaman, mariner, or other person in the army or navy, or attached to troops in the service of the United States" from voting in a Territory, except under specified limitations as to residence (2)." Nor is the suffrage granted to any of the following classes of citizens in any of the States and Territories:

Minors.

Idiots.

Insane.

Paupers.

Convicts.

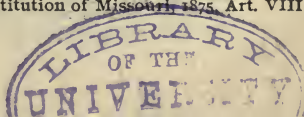
Polygamists.

Minors are given the right to vote on attaining maturity of years; the insane, whenever restoration to reason shall have been judicially acknowledged; convicts, on the issuance of a pardon from a lawful source or the removal of disability by an act of the legislature or of Congress.

Convicts lose their right to vote because of the hein-

(1) But Missouri has, singularly enough, overlooked naval *seamen* in its prohibitory provision. See Constitution of Missouri, 1875, Art. VIII, Sec. 11.

(2) Rev. Stats. U. S., Sec. 1860, Subd. 3.



ousness of their offenses against society. Paupers are deprived of it, because they are a charge and a burden on the State. Idiots are not granted it, because they cannot comprehend its object or meaning and do not understand how to use it.

Polygamy is proscribed in all States and Territories under the laws relating to bigamy, and in each of the several States the penalty for bigamy, which is among the crimes classed as infamous, carries with it disfranchisement. The practice of polygamy among the Mormons in Utah, under cover of their religious faith and in open defiance of the anti-bigamy laws of the United States, resulted in the passage by Congress of a special act depriving polygamists of the right to vote or to hold public office in the Territories, or anywhere under the Federal Government (1).

In some States, persons who have engaged as principals or accessories in a duel are not entitled to vote at any election. In other States, the lack of taxable property or of a specific degree of education, disqualifies a citizen from the right of voting. Insufficient residence is a bar to voting in all States and Territories. And, notwithstanding the provisions of Section 2004 of the Revised Statutes, the several States have the power to deny

(1) "That no polygamist, bigamist or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in such Territory or other place or be eligible for election or appointment to, or be entitled to hold any office or place of public trust, honor or emolument in, under, and for any such Territory or place, or under the United States."—*Act of March 22, 1882. 22 U. S. Stats., Ch. 47, Sec. 8. p. 31.*

the right of suffrage to any citizen of the United States on account of age, sex, place of birth, vocation, want of property or intelligence, neglect of civic duties, crime, or other causes not specified in the Fifteenth Amendment of the Federal Constitution (1), and this power has been exercised by some of them. An examination of the voting qualifications established by the several States, will show that there are many perplexing differences between them now existing, out of which serious complications and irregularities have sprung.

I.—VOTING QUALIFICATIONS IN THE SEVERAL STATES.

The several States, in their respective relations to the right of suffrage, may be classified as follows:

1. States restricting the suffrage to male citizens of the United States.
2. States restricting it to male citizens of the United States and male persons of foreign birth who have declared their intention to become citizens of the United States.
3. States restricting it to "male citizens of the State."
4. States restricting it to "male citizens."
5. States restricting it to "male inhabitants."

(1) 1 Sawyer, 374.

6. States granting it to "all citizens of the United States."

7. States granting it to "male citizens," or to "male citizens of the United States," or to "male citizens of the United States and male aliens who have declared their intention to become citizens of the United States," under special limitations.

In each of these classifications, the enjoyment of the franchise is dependent, however, on age and residence qualifications (1).

CLASS I.

- | | | |
|----------------|-----------------|---------------------|
| 1. CALIFORNIA, | 6. MAINE, | 11. NEW JERSEY, |
| 2. FLORIDA, | 7. MARYLAND, | 12. OHIO, |
| 3. IDAHO, | 8. MISSISSIPPI, | 13. SOUTH CAROLINA, |
| 4. ILLINOIS, | 9. MONTANA, | 14. VERMONT, |
| 5. IOWA, | 10. NEVADA, | 15. WASHINGTON. |

Constitutional provisions of States whose qualified voters are "male citizens of the United States."

(1) The legal age of twenty-one has been adopted by all States as the age qualification of an elector. But there is a great difference between the several States as to residence qualification. In twenty-nine States, the residence qualification is fixed at one year. These States are Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Missouri, Montana, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania (native or former electors of this State, who have been absent and returned, six months), Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming. In ten of them the term of residence is fixed at six months. These States are Colorado, Idaho, Indiana, Iowa, Kansas, Mississippi, Nebraska, Nevada, Oregon and South Dakota. In Maine and Michigan, the term of residence to qualify as an elector is placed at three months; in Minnesota, at four months; in Kentucky, at two years; but in New Hampshire no time is specified, proof that he is an inhabitant being sufficient.

CALIFORNIA.

Citizens of Mexico, resident in California for one year after its acquisition by the United States, acquired citizenship in the United States under the provisions of the Treaty of Queretaro.

*ARTICLE I.

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

ARTICLE II.

SECTION 1. Every male citizen of the United States, every male person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every male naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county in which he claims his vote ninety days, and in the election precinct sixty days, shall be entitled to vote at all elections which are now or which may hereafter be authorized by law; provided, no native of China, no idiot, insane person, or person convicted of any infamous crime, and no person hereafter convicted of the embezzlement or misappropriation of public money, shall ever exercise the privilege of an elector in this State.

SEC. 4. For the purposes of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or his absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States; or of the high seas; nor while a student at any seminary of learning; nor while kept in any almshouse or other asylum, at public expense; nor while confined in any public prison.

ARTICLE XIX.

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. * * *

ARTICLE XX.

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to

*Const. of California, 1879.

fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

FLORIDA.

*ARTICLE VI.

SECTION 1. Every male person of the age of twenty-one years and upwards, that shall, at the time of registration, be a citizen of the United States, or that shall have declared his intention to become such in conformity to the laws of the United States, and that shall have resided and had his habitation, domicile, home and place of permanent abode in Florida for one year, and in the county for six months, shall in such county be deemed a qualified elector at all elections under this Constitution.

SEC. 2. The Legislature, at its first session after the ratification of this Constitution, shall provide by law for the registration of all the legally qualified voters in each county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote (1).

SEC. 3. Every elector shall, at the time of his registration, take and subscribe to the following oath: "I do solemnly swear or affirm that I will protect and defend the Constitution of the United States and of the State of Florida, that I am twenty-one years of age, and have been a resident of the State of Florida for twelve months and of this county for six months, and I am qualified to vote under the Constitution and laws of the State of Florida."

SEC. 4. No person under guardianship, *non compos mentis* or insane, shall be allowed to vote at any election, nor shall any person convicted of felony by a court of record be qualified to vote at any election unless restored to civil rights.

(*) Constitution of Florida, 1885.

(1) Act adopted June 7, 1887.

SEC. 5. The Legislature shall have power to, and shall enact the necessary laws to exclude from every office of honor, power, trust or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election; or that shall hereafter fight a duel or send or accept a challenge to fight, or that shall be a second to either party, or that shall be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law (1).

SEC. 7. At any election at which a citizen or subject of any foreign country shall offer to vote, under the provisions of this Constitution, if required by an elector, he shall produce to the persons lawfully authorized to conduct and supervise such election a duly sealed and certified copy of his declaration of intention, and if unable to do so by reason that such copy cannot be obtained at the time of such election, he shall be allowed to make affidavit before a proper officer, setting forth the reason why he is unable to furnish such certificate, and if said affidavit prove satisfactory to the inspectors they shall allow said elector to cast his vote; and any naturalized citizen offering to vote shall, if so required by any elector, produce his certificate of naturalization, or a duly certified copy thereof, and in the event that said elector cannot produce the same, he shall be allowed to make affidavit before a proper officer stating in full the reason why it cannot be furnished, and if satisfactory to the inspectors of said election such elector shall be allowed to vote.

SEC. 8. The Legislature shall have power to make the payment of the capitation tax a pre-requisite for voting, and all such taxes received shall go into the school fund.

IDAHO.

[See also Appendix].

Women permitted to vote at school district elections; and to hold any school district office.

ACT OF FEBRUARY 25, 1891.

SECTION 2. That every male person over the age of twenty-one years, possessing the qualifications following, shall be entitled to vote at all elections. He shall be a citizen of the United States and shall have resided in this State six months immediately preceding the election at which he offers to vote, and in the county thirty days; *Provided*, that no person shall be per-

(1) Act adopted June 3, 1887.

mitted to vote at any county seat election who has not resided in the county six months and in the precinct ninety days where he offers to vote, nor shall any person be permitted to vote at any election for the division of a county or striking off from any county any part thereof, who has not the qualifications provided for in Section 3, Article XVIII of the Constitution; nor shall any person be denied the right to vote at any school district election, nor to hold any school district office on account of sex.

SECTION 3. No person is permitted to vote who is not registered as provided by law, or who is under guardianship, idiotic or insane, or who has at any place been convicted of treason, felony, embezzlement of public funds, bartering or selling, or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the right of citizenship, or who at the time of such election is confined in prison on conviction of a criminal offense, or who after passing the age of eighteen years and since the first day of January, A. D. 1888, has been, or is a bigamist or polygamist, or is living or has lived in what is known as patriarchal, plural or celestial marriage, or in violation of any law of this State, or of the United States, forbidding any such crime; or who in any manner teaches or has taught, advises or has advised, counsels or has counseled, aids or has aided, encourages or has encouraged, any person to enter into bigamy, polygamy, or such patriarchal, plural or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who has been a member of, or contributes or has contributed to the support, aid or encouragement of any order, organization, association, corporation or society which teaches or has taught, advises or has advised, counsels or has counseled, encouraged or aided any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or has taught, advises or has advised that the laws of this State, or of the Territory of Idaho before its admission as a State into the Union, or of the United States applicable to the Territory of Idaho, prescribing rules of civil conduct are not the supreme law.

SEC. 4. For purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this State, or of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, nor while a student of any institution of learning, nor while kept at any almshouse or other asylum at the public expense.

SEC. 5. Every qualified elector shall be eligible to hold any office of this State for which he is an elector, except as otherwise provided by the Constitution.

ILLINOIS.

Aliens voting under the Constitution of 1848.
 Office holding limited to Federal citizens.
 Women given the right to vote for school officers.

*ARTICLE VII.

SECTION 1. Every person having resided in this State one year, in the county ninety days, and in the election district thirty days next preceding any § election therein, who was an elector in this State on the 1st day of April, in the year of our Lord, 1848 [see Constitutional provision of 1848], or obtained a certificate of naturalization, before any court of record in this State, prior to the first of January, in the year of our Lord, 1870, or who shall be a male § citizen of the United States above the age of twenty-one years, shall be entitled to vote at such election.

§ June 19, 1891, an act of the Legislature was approved conferring the right to vote for school officers on women and it went into force July 1, 1891. The act is, however, assumed to be unconstitutional, conflicting with these provisions in this article.

SEC. 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States, or this State, or in the military or naval service of the United States.

SEC. 5. No soldier, seaman or marine in the army of the United States shall be deemed a resident of the State in consequence of being stationed therein.

SEC. 6. No person shall be elected or appointed to any office in the State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

SEC. 7. The general assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes (1).

*Const. of 1870.

(1) No person who has been legally convicted of any crime, the punishment of which is imprisonment in the penitentiary, shall be permitted to vote at any election, unless he shall be restored to the right to vote by pardon. *Starr & Curtis' Annotated Stats. of Ill., Ch. 36, § 72, p. 1012.* Or by the expiration of his disfranchisement under section 83 of this act. *Cothlan's Anno. Ed. Rev. Stats., Ill. p. 627.* And the effect of a sentence of disfranchisement * * shall be to deprive such persons sentenced of the right to vote at any general or special election, or town meeting within this State, for the period of time fixed by the court, where such person shall be convicted under this Section. *Id. Sec. 83, p. 630.*

Following is the Constitutional provision of 1848:

ARTICLE VI.

SEC. 1. In all elections every white male citizen above the age of twenty-one years, having resided in the State one year next preceding any election, shall be entitled to vote at such election ; *and every white male inhabitant of the age aforesaid who may be a resident of the State at the time of the adoption of this Constitution*, shall have the right of voting as aforesaid ; but no such citizen or inhabitant shall be entitled to vote except in the district or county in which he shall actually reside at the time of such election.

IOWA.

*ARTICLE II.

SECTION 1. Every male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

SEC. 4. No person in the military, naval or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval station within this State.

SEC. 5. No idiot or insane person, or persons convicted of any infamous crime, shall be entitled to the privilege of an elector.

MAINE.

†ARTICLE II.

SECTION 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for governor, senators and representatives, in the town or plantation where his residence is so established, and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any town or plantation ; nor

*Const. of Iowa, 1857.

†Const. of Maine, 1820, and amendments of 1865.

shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established. No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State.

SEC. 4. The election of governor, senators and representatives, shall be on the second Monday of September, annually, forever. But citizens of the State absent therefrom in the military service of the United States, or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote on Tuesday next after the first Monday in November, in the year of our Lord one thousand eight hundred and sixty-four, for governor and senators, and their votes shall be counted and allowed, in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for governor, senators and representatives on the second Monday of September annually thereafter forever in the manner herein provided. On the day of election a poll shall be opened at every place without this State where a regiment, battalion, battery, company, or detachment of not less than twenty soldiers from the State of Maine may be found or stationed, and every citizen of said State of the age of twenty-one years, in such military service, shall be entitled to vote as aforesaid; and he shall be considered as voting in the city, town, plantation and county in this State where he resided when he entered the service. * *

ARTICLE IX.

SEC. 2. But citizens of this State absent therefrom in the military service of the United States or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote for judges and registers of probate, sheriffs, and all other county officers, on the Tuesday next after the first Monday of November, in the year 1864, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for all such officers on the second Monday in September annually thereafter forever. * *

MARYLAND.

*ARTICLE I.

SECTION I. * * * * and every white (1) male citizen of the United States, of the age of twenty-one years or upward, who has been a resident of

*Const. of Maryland, 1867.

(1) Annulled by XVth Amendt. Fed. Const.

the State for one year, and of the legislative district of Baltimore city, or of the county in which he may offer to vote, for six months next preceding the election, shall be entitled to vote in the ward or election district in which he resides, at all elections hereafter to be held in this State; and, in case any county or city shall be so divided as to form portions of different electoral districts for the election of Representatives in Congress, Senators, delegates, or other officers, then, to entitle a person to vote for such officer, he must have been a resident of that part of the county or city which shall form a part of the electoral district in which he offers to vote for six months next preceding the election; but a person who shall have acquired a residence in such county or city, entitling him to vote at any such election, shall be entitled to vote in the election district from which he removed until he shall have acquired a residence in the part of the county or city to which he has removed.

SEC. 2. No person above the age of twenty-one years, convicted of larceny or other infamous crime, unless pardoned by the Governor, shall ever thereafter be entitled to vote at any election in this State; and no person under guardianship as a lunatic, or as a person *non compos mentis*, shall be entitled to vote.

SEC. 3. If any person shall give or offer to give, directly or indirectly, any bribe, present, or reward, or any promise, or any security for the payment or the delivery of money, or any other thing, to induce any voter to refrain from casting his vote, or to prevent him, in any way, from voting, or to procure a vote for any candidate or person proposed or voted for as elector of President and Vice-President of the United States, or Representatives in Congress, or for any office of profit or trust created by the Constitution or laws of this State, or by the ordinances or authority of the Mayor and City Council of Baltimore, the person giving or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be such, at any election to be hereafter held in this State, shall, on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

MISSISSIPPI.

*ARTICLE I.

SECTION 18. No property or educational qualification shall ever be required for any person to become an elector.

SEC. 27. * * * Any person who shall hereafter fight a duel, or assist in the same as second, or send, accept or knowingly carry a challenge there-

*Const. of Mississippi, 1868. A new Constitution was adopted in 1891. See Appendix.

for, or go out of the State to fight a duel, shall be disqualified from holding any office under this Constitution, and shall forever be disfranchised in this State.

ARTICLE IV.

SECTION 17. No person shall be eligible to any office of profit or trust, nor shall he be permitted to exercise the right of suffrage within this State, who shall have been convicted of bribery, perjury, or other infamous crime.

SEC. 18. Any person who shall have been convicted of giving or offering, directly or indirectly, any bribe to procure his election or appointment, and any person who shall give or offer any bribe to procure the election or appointment of any person to office, shall, on conviction thereof, be disqualified from being an elector or holding any office of profit or trust under the laws of the State.

ARTICLE VII.

SECTION 2. All male inhabitants of this State, except idiots, and insane persons, and Indians not taxed, citizens of the United States or naturalized, twenty-one years old and upwards, who have resided in this State six months and in the county one month next preceding the day of election, at which said inhabitant offers to vote, and who are duly registered according to the requirements of section three of this article, and who are not disqualified by reason of any crime, are declared to be qualified electors.

SEC. 3. The Legislature shall provide, by law, for the registration of all persons entitled to vote at any election, and all persons entitled to register shall take and subscribe to the following oath or affirmation: "I, ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am twenty-one years old; that I have resided in this State six months, and in ——— county one month; that I will faithfully support and obey the Constitution and laws of the United States and of the State of Mississippi, and will bear true faith and allegiance to the same. So help me God."

SEC. 4. No person shall be eligible to any office of profit or trust, or to any office in the militia of this State, who is not a qualified elector.

SEC. 5. In time of war, insurrection, or rebellion, the right to vote at such place and in such manner as shall be prescribed by law, shall be enjoyed by all persons otherwise entitled thereto, who may be in the actual military or naval service of the United States, or this State, provided said votes be made to apply in the county or precinct wherein they reside.

ARTICLE XII.

SEC. 2. The Legislature shall pass laws to exclude from office and from suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors; and every person shall be disqualified from holding any office, or place of honor, profit, or trust under the

authority of this State, who shall be convicted of having given or offered any bribe to procure his election or appointment.

MONTANA.

Women given the right to vote at all school district elections and to hold any school district office and the office of County Superintendent of Schools; also if possessed of the qualifications for the right of suffrage required of men, and are taxpayers, have equally, with men, the right to vote on all questions submitted to the taxpayers of the State.

*ARTICLE IX.

SECTION 2. Every male person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections, and for all officers that now are, or hereafter may be, elective by the people, and upon all questions which may be submitted to the vote of the people:

First, he shall be a citizen of the United States.

Second, he shall have resided in this State one year immediately preceding the election at which he offers to vote, and in the town, county, or precinct, such time as may be prescribed by law: *Provided*, first, that no person convicted of felony shall have the right to vote unless he has been pardoned; *Provided*, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this Constitution; *Provided*, that after the expiration of five years from the adoption of this Constitution no person except citizens of the United States shall have the right to vote.

SEC. 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the State, or of the United States, nor while engaged in the navigation of the waters of the State, or of the United States, nor while a student at any institution of learning, nor while kept at any almshouse or other asylum at the public expense, nor while confined in any public prison.

SEC. 6. No soldier, seaman or marine in the army or navy of the United

States shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

SEC. 8. No idiot or insane person shall be entitled to vote at any election in this State.

SEC. 9. The Legislative Assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

SEC. 10. Women shall be eligible to hold the office of County Superintendent of Schools or any school district office, and shall have the right to vote at any school district election.

SEC. 11. Any person qualified to vote at general elections and for State officers in this State, shall be eligible to any office therein, except as otherwise provided in this Constitution, and subject to such additional qualifications as may be prescribed by the Legislative Assembly for city offices and offices hereafter created.

SEC. 12. Upon all questions submitted to the vote of the taxpayers of the State, or any political division thereof, women who are taxpayers and possessed of the qualifications for the right of suffrage required of men by this Constitution, shall, equally, with men, have the right to vote.

NEVADA.

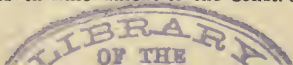
*ARTICLE II.

SECTION 1. Every white (1) male citizen of the United States (not laboring under the disabilities named in this Constitution) of the age of twenty-one years and upwards, who shall have actually and not constructively resided in the State six months, and in the district or county thirty days next preceding any election, shall be entitled to vote for all officers that now are, or hereafter may be elected by the people, and upon all questions submitted to the electors at such election: *Provided*, That no person who has been, or may be convicted of treason or felony in any State or Territory of the United States, unless restored to civil rights, and no person who, after arriving at the age of eighteen years, shall have voluntarily borne arms against the United States, or held civil or military office under the so-called Confederate States, or either of them, unless an amnesty be granted to such by the Federal Government, and no idiot or insane person shall be entitled to the privilege of an elector.

SEC. 2. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the naviga-

*Const. of Nevada, 1864.

(1) The word "white" annulled by the XVth Amendment to the Const. of the U. S.



tion of the waters of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

SEC. 3. The right of suffrage shall be enjoyed by all persons otherwise entitled to the same, who may be in the military or naval service of the United States: *Provided*, That the votes so cast shall be made to apply to the county and township of which said voters were *bona fide* residents at the time of their enlistment: *And provided further*, That the payment of a poll-tax, or a registration of such votes, shall not be required as a condition to the right of voting. Provision shall be made by law regulating the manner of voting, holding elections, and making returns of such elections, wherein other provisions are not contained in this Constitution.

SEC. 6. Provision shall be made by law for the registration of the names of the electors within the counties of which they may be residents, and for ascertainment by proper proof of the persons who shall be entitled to the right of suffrage, as hereby established; to preserve the purity of elections, and to regulate the manner of holding and making returns of the same; and the Legislature shall have power to prescribe by law any other or further rules or oaths as may be deemed necessary as a test of electoral qualification.

SEC. 7. The Legislature shall provide by law for the payment of an annual poll-tax of not less than two nor exceeding four dollars for each male person resident in the State between the ages of twenty-two and sixty years (uncivilized American Indians excepted), one-half to be applied for State and one-half for county purposes; and the Legislature may, in its discretion, make such payment a condition to the right of voting (1).

ARTICLE XV.

SECTION 3. * * * No person who, while a citizen of this State, has since the adoption of this Constitution, fought a duel with a deadly weapon, either within or beyond the boundaries of this State, or who has aided as a second, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to hold any office of honor, profit, or trust, or enjoy the right of suffrage under this Constitution. The Legislature shall provide by law for giving force and effect to this section.

NEW JERSEY.

*ARTICLE II.

ONE.—Every male citizen of the United States, of the age of twenty-one

(1) The poll-tax in Nevada is fixed by law at \$3; but its payment, as a condition precedent to voting, was repealed by the Legislature during the session of 1869.

*Const. of New Jersey, 1844, as amended 1875.

years, who shall have been a resident of this State one year, and of the county in which he claims his vote five months, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be, elective by the people: *Provided*, That no person in the military, naval, or marine service of the United States, shall be considered a resident in this State, by being stationed in any garrison, barrack, or military or naval place or station within this State; and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness, unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector; and *provided further*, That in time of war no elector in the actual military service of the State, or of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

Two. The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery.

OHIO.

*ARTICLE V.

SECTION 1. Every white (1) male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides at such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

SEC. 4. The General Assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or otherwise infamous crime.

SEC. 5. No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison, or military or naval station within the State, be considered a resident of the State.

SEC. 6. No idiot or insane person shall be entitled to the privileges of an elector.

*Constitution of Ohio, 1851.

(1) Annulled by the XVth Amendt. to Fed. Const.

SOUTH CAROLINA.

*ARTICLE I.

SECTION 31. * * * * Every inhabitant of this commonwealth possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.

SEC. 33. The right of suffrage shall be protected by laws regulating elections, and prohibiting under adequate penalties, all undue influences from power, bribery, tumult or improper conduct.

SEC. 34. * * * No person in this State shall be disfranchised * * * except by the laws of the land or the judgment of his peers.

SEC. 35. Temporary absence from this State shall not forfeit a residence once obtained.

ARTICLE VIII.

SECTION 2. Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in the Constitution, without distinction of race, color, or former condition, who, shall be a resident of this State at the time of the adoption of this Constitution, or who shall thereafter reside in this State one year, and in the County in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now, or hereafter may be, elected by the people, and upon all questions submitted to the electors at any elections *Provided*, That no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States: *Provided further*, That no person, while kept in an almshouse or asylum, or of insane mind, or confined in any public prison, shall be allowed to vote or hold office.

SEC. 3. It shall be the duty of the General Assembly to provide from time to time, for the registration of all electors.

SEC. 4. For the purpose of voting, no person shall be deemed to have lost his residence by reason of absence while employed in the service of the United States, nor while engaged upon the waters of this State or of the United States, or of the high seas, nor while temporarily absent from the State.

SEC. 5. No soldier, seaman, or marine in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of having been stationed therein.

SEC. 7. Every person entitled to vote at any election shall be eligible to any office which now is, or hereafter shall be, elected by the people in the county where he shall have resided sixty days previous to such election, ex-

cept as otherwise provided in this Constitution or the Constitution of the United States.

SEC. 8. The General Assembly shall never pass any laws that will deprive any of the citizens of this State of the right of suffrage, except of treason, murder, robbery, or duelling, whereof the persons shall have been duly tried and convicted.

SEC. 12. No person shall be disfranchised for felony, or other crimes committed while such person was a slave.

VERMONT.

CHAPTER I.

VII. That all elections ought to be free and without corruption, and that all freemen, having a sufficient evidence, common interest with, and attachment to the community, have a right to elect officers and be elected into office, agreeably to the regulations made in this Constitution.

CHAPTER II.

SECTION 8. The House of Representatives of the freemen of this State shall consist of persons most noted for wisdom and virtue. to be chosen by ballot, by the freemen of every town in this State, respectively, on the 1st Tuesday in September, annually, for ever.

SEC. 21. Every man, of the full age of twenty-one years, having resided in this State for the space of one whole year next before the election of Representatives, and is of a quiet and peaceable behavior, and will take the following oath or affirmation, shall be entitled to all the privileges of a freeman of this State:

"You solemnly swear [or affirm], that whenever you give your vote or suffrage touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any man."

ARTICLE I. (1)

No person who is not already a freeman of this State, shall be entitled to exercise the privilege of a freeman, unless he be a natural born citizen of this, or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress.

*Const. of Vermont, 1793.

(1) Const. Amendment adopted 1828.

WASHINGTON.

Untaxed Indians forever barred.

Women legal voters at any school election.

*ARTICLE VI

SECTION 1. All male persons of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all elections:

They shall be citizens of the United States.

They shall have lived in the State one year and in the county ninety days, and in the city, town, ward or precinct thirty days immediately preceding the election at which they offer to vote.

Provided, That Indians not taxed shall never be allowed the elective franchise.

Provided further, That all male persons who, at the time of the adoption of this Constitution, are qualified electors of the Territory shall be electors (1).

SEC. 2 The Legislature may provide that there shall be no denial of the elective franchise, at any school election, on account of sex.

SEC. 3. All idiots, insane persons, and persons convicted of infamous crimes, unless restored to their civil rights, are excluded from the elective franchise.

SEC. 4. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the State or of the United States, nor while a student at any institution of learning, nor while kept at the public expense at any poor-house or other asylum, nor while confined in public prison, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas.

The following article which was submitted separately to the people of Washington at the same election as that at which the Constitution was adopted, held October 1, 1889, was rejected by the electors :

All persons, male or female, of the age of twenty-one years or over, pos-

*Constitution of Washington, 1889.

(1) This provision gives the elective franchise to aliens who had declared their intention to become citizens of the United States before the time of the adoption of this Constitution. See "Voting Qualifications in the Territories," and Section 1860 of the Revised Statutes of the United States.

sessing the other qualifications provided by this Constitution, shall be entitled to vote at all elections.

Woman was, therefore, denied the right of an elector in the State of Washington, but she was subsequently given a limited right to vote.

An act was passed by the State Legislature and approved March 27, 1890, which contains the following provision:

SECTION 58. Every person, male or female, over the age of twenty-one years, who shall have resided in the school district for thirty days, immediately preceding any school election, and in the State one year, and is otherwise, except as to sex, qualified to vote at any general election, shall be a legal voter of any school election, and no other person shall be allowed to vote.

And an Act approved March 28, 1890, opened every profession and calling to women as to men, but it debarred them from holding public office.

CLASS II.

- | | | |
|--------------|---------------|---------------------|
| 1. ALABAMA, | 6. LOUISIANA, | 11. NORTH CAROLINA, |
| 2. ARKANSAS, | 7. MICHIGAN, | 12. NORTH DAKOTA, |
| 3. COLORADO, | 8. MINNESOTA, | 13. OREGON, |
| 4. INDIANA, | 9. MISSOURI, | 14. SOUTH DAKOTA, |
| 5. KANSAS, | 10. NEBRASKA, | 15. WISCONSIN. |

Constitutional provisions of States whose qualified voters are "male citizens of the United States and male aliens who have declared their intention to become citizens."

ALABAMA.

*ARTICLE I.

SECTION 34. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence from power, bribery, tumult, or other improper conduct.

SECTION 38. No educational or property qualification for suffrage or office, nor any restraint upon the same, on account of race, color, or previous condition of servitude, shall be made by law.

ARTICLE VIII.

SECTION 1. Every male citizen of the United States, and every male person of foreign birth who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is twenty-one years old or upwards, possessing the following qualifications, shall be an elector, and shall be entitled to vote at any election by the people, except as hereinafter provided;

1st. He shall have resided in the State at least one year immediately preceding the election at which he offers to vote.

2d. He shall have resided in the county for three months, and in the precinct, district, or ward for thirty days immediately preceding the election at which he offers to vote: *Provided*, That the General Assembly may prescribe a longer or shorter residence in any precinct in any county, or in any ward in any incorporated city or town having a population of more than 5,000 inhabitants, but in no case to exceed three months: *And provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire a residence by being stationed in this State.

SEC. 3. The following classes shall not be permitted to register, vote, or hold office.

1st. Those who have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, or other crime punishable by imprisonment in the penitentiary.

2d. Those who are idiots or insane.

ARKANSAS.

†ARTICLE II.

SECTION 26. No religious test shall ever be required of any person as a qualification to vote or hold office.

*Const. of Alabama, 1875.

†Const. of Arkansas, 1874.

ARTICLE III.

SECTION 1. Every male citizen of the United States, or male person who has declared his intention of becoming a citizen of the same, of the age of twenty-one years, who has resided in the State twelve months, and in the county six months, and in the voting precinct or ward one month next preceding any election, where he may propose to vote, shall be entitled to vote at all elections by the people.

SEC. 5. No idiot or insane person shall be entitled to the privileges of an elector,

SEC. 6. Any person who shall be convicted of fraud, bribery, or other wilful and corrupt violation of any election law of this State, shall be adjudged guilty of a felony, and disqualified from holding any office of trust or profit in the State.

SEC. 7. No soldier, sailor, or marine, in the military or naval service of the United States, shall acquire a residence by reason of being stationed on duty in this State.

ARTICLE V.

SECTION 9. No person hereafter convicted of embezzlement of public money, bribery, forgery, or other infamous crime, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this State.

ARTICLE XIX.

SECTION 1. No person who denies the being of a God shall hold any office in the civil departments of this State, nor be competent to testify as a witness in any court.

SEC. 2. No person who may hereafter fight a duel, assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, shall hold any office in the State for a period of ten years; and may be otherwise punished as the law may prescribe.

SEC. 3. No person shall be elected to or appointed to fill a vacancy in any office who does not possess the qualifications of an elector.

COLORADO.

Women are entitled to vote at school district elections.

Felons who have served their full term of imprisonment restored to the rights of citizenship.

*ARTICLE VII.

SECTION 1. Every male person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

1st. He shall be a citizen of the United States, or, not being a citizen of the United States, he shall have declared his intention, according to law, to become such citizen, not less than four months before he offers to vote.

2d. He shall have resided in the State six months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law: *Provided*, That no person shall be denied the right to vote at any school district election, nor to hold any school district office, on account of sex.

SEC. 2. The General Assembly shall, at the first session thereof, or may at any subsequent session, enact laws to extend the right of suffrage to women of lawful age, and otherwise qualified according to the provisions of this article. No such enactment shall be of effect until submitted to the vote of the qualified electors at a general election, nor unless the same be approved by a majority of those voting thereon.

SEC. 3. The General Assembly may prescribe, by law, an educational qualification for electors, but no such law shall take effect prior to the year of our Lord one thousand eight hundred and ninety, and no qualified elector shall be thereby disqualified.

SEC. 4. For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the State, or of the United States, nor while a student at any institution of learning, nor while kept at public expense in any poor-house or other asylum, nor while confined in public prison.

SEC. 6. No person except a qualified elector shall be elected or appointed to any civil or military office in the State.

SEC. 10. No person while confined in any public prison shall be entitled to vote; but every such person who was a qualified elector prior to such imprisonment, and who is released therefrom by virtue of a pardon, or by virtue of having served his full term of imprisonment, shall, without further action, be invested with all the rights of citizenship, except as otherwise provided for in this Constitution.

[The exception noted relates to depriving those who have participated as principals or assistants in a duel,

*Const. of Colorado, 1876.

and those who have been convicted of embezzling public money, bribery, perjury, solicitation of bribery, or subordination of perjury, of eligibility to the General Assembly and of the right of holding any office of trust or profit in the State.]

INDIANA.

*ARTICLE II.

SECTION 2. In all elections not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, and every white male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.

SEC. 3. No soldier, seaman or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 4. No person shall be deemed to have lost his residence in the State by reason of his absence, either on business of this State or of the United States.

SEC. 5. No negro or mulat^o shall have the right of suffrage (1).

SEC. 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 8. The General Assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime.

Const. of Indiana, 1851.

(1) Annulled by the XIVth and XVth amendments to the Federal Constitution.

KANSAS.

*ARTICLE V.

SECTION 1. Every white (1) male person, of twenty-one years and upwards, belonging to either of the following classes, who shall have resided in Kansas six months next preceding such election, and in the township or ward in which he offers to vote at least thirty days next preceding such election, shall be deemed a qualified elector :

First—Citizens of the United States.

Second—Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

SEC. 2. No person under guardianship, *non compos mentis* or insane ; no person convicted of felony, unless restored to civil rights ; no person who has been dishonorably discharged, from the service of the United States, unless reinstated ; no person guilty of defrauding the Government of the United States or of any of the States thereof ; no person guilty of giving or receiving a bribe, or offering to give or receive a bribe ; and no person who has ever voluntarily borne arms against the Government of the United States, or in any manner voluntarily aided or abetted in the attempted overthrow of said Government, except all persons who have been honorably discharged from the military service of the United States since the 1st of April, A. D. 1861, provided that they have served one year or more therein, shall be qualified to vote or hold office in this State, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the Legislature (2).

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or the high seas, nor while a student in any seminary of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison ; and the Legislature may make provisions for taking the votes of electors who may be absent from their township or wards in the volunteer military service of the United States, or the militia service of this State ; but nothing herein contained shall be deemed to allow any soldier, seaman, or marine in the Regular Army or Navy of the United States the right to vote (3).

*Const. of Kansas, 1859.

(1) Annulled by the XIVth and XVth amendments to the Federal Const.

(2) Constitutional Amendment ratified in 1867.

(3) Constitutional Amendment ratified in 1864.

SEC. 3. No soldier, seaman, or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of being stationed within the same; nor shall any soldier, seaman, or marine have the right to vote.

SEC. 4. The Legislature shall pass such laws as may be necessary for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

*LOUISIANA.

ARTICLE 148.—No person shall hold any office, State, parochial or municipal, or shall be permitted to vote at any election, or act as a juror, who, in due course of law, shall have been convicted of treason, perjury, forgery, bribery or other crime punishable by imprisonment in the penitentiary, or who shall be under interdiction.

ART. 164.—No soldier, sailor or marine in the military or naval service of the United States, shall hereafter acquire a domicile in this State by reason of being stationed or doing duty in the same.

ART. 185.—Every male citizen of the United States, and every male person of foreign birth who has been naturalized or who may have legally declared his intention to become a citizen of the United States before he offers to vote, who is twenty-one years old or upwards, possessing the following qualifications, shall be an elector and shall be entitled to vote at any election by the people, except as hereinafter provided:

First—He shall be an actual resident of the State at least one year next preceding the election at which he offers to vote.

Second—He shall be an actual resident of the parish in which he offers to vote at least six months next preceding the election.

Third—He shall be an actual resident of the ward or precinct in which he offers to vote at least thirty days next preceding the election.

ART. 187.—The following persons shall not be permitted to register, vote or hold any office or appointment of honor, profit or trust in this State, to wit:

Those who have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery, illegal voting or other crime punishable by hard labor in the penitentiary, idiots and insane persons.

ART. 188.—No qualification of any kind for suffrage or office, nor any restraint upon the same, on account of race, color or previous condition shall be made by law.

ART. 193.—For the purpose of voting no person shall be deemed to have

*Const. of Louisiana, 1879.

gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States; nor while engaged in the navigation of the waters of the State or the United States, or of the high seas, nor while a student of any institution of learning.

ART. 195.—No person shall be eligible to any office, State, judicial, parochial, municipal or ward, who is not a citizen of this State, and a duly qualified elector of the State, judicial district, parish, municipality or ward wherein the functions of said office are to be exercised. And whenever any officer, State, judicial, parochial, municipal or ward, may change his residence from this State, or from the district, parish, municipality or ward in which he holds such office, the same shall thereby be vacated, any declaration of intention of domicile to the contrary notwithstanding.

MICHIGAN.

Civilized Indians, not members of tribes, are electors.

*ARTICLE VII.

SEC. 1. In all elections, every male citizen, every male inhabitant, residing in the State on the 24th day of June, 1835; every male inhabitant residing in the State on the 1st of January, 1850, who has declared his intention to become a citizen of the United States, pursuant to the laws thereof, six months preceding an election, or who has resided in this State two years and six months, and declared his intention as aforesaid; and every civilized male inhabitant of Indian descent, a native of the United States and not a member of any tribe, shall be an elector and entitled to vote; but no citizen or inhabitant shall be an elector or entitled to vote at any election, unless he shall be above the age of twenty-one years, and has resided in this State three months, and in the township or ward in which he offers to vote ten days, next preceding such election: *Provided*, That in time of war, insurrection, or rebellion, no qualified elector in the actual military service of the United States or of this State, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from the township, ward, or State in which he resides; and the Legislature shall have the power, and shall provide the manner in which and the time and place at which such absent electors may vote, and for the canvass and return of their votes to the township or ward election-district in which they respectively reside, or otherwise.

SEC. 5. No elector shall be deemed to have gained or lost a residence by

*Const. of Michigan, 1850, as amended, 1870.

reason of his being employed in the service of the United States or of this State; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum at public expense; nor while confined in any public prison.

SEC. 7. No soldier, seaman, nor marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed in any military or naval place within the same.

SEC. 8. Any inhabitant who may hereafter be engaged in a duel, either as principal or accessory before the fact, shall be disqualified from holding any office under the Constitution and laws of this State, and shall not be permitted to vote at any election.

MINNESOTA.

Civilized Indians admitted to State citizenship and the right of suffrage.

*ARTICLE VII.

SECTION 1. Every male person of the age of twenty-years or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall, at the time, have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

First—Citizens of the United States.

Second—Persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

Third—Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Fourth—Persons of Indian blood residing in the State, who have adopted the language, customs and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

SEC. 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or any felony, unless restored to civil rights, and no person under guardianship, or who

*Const. of Minnesota, 1857, as amended, 1868

may be *non compos mentis*, or iusane, shall be entitled or permitted to vote at any election in this State.

SEC. 3. For the purposes of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of the State, or of the United States; nor while a student of any seminary of learning; nor while kept in any almshouse or asylum; nor while confined in any public prison.

SEC. 4. No soldier, seaman or marine in the Army or Navy of the United States shall be deemed a resident of the State in consequence of being stationed within the same.

SEC. 7. Every person who, by the provisions of this article, shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this Constitution, or the Constitution and laws of the United States.

SEC. 8. The Legislature may, notwithstanding anything in this article, provide by law that any woman at the age of twenty-one years and upward may vote at any election held for the purpose of choosing any officers of schools, or upon any measure relating to schools, and may also provide that any such woman shall be eligible to hold any office pertaining solely to the management of schools.

MISSOURI.

*ARTICLE VIII.

SECTION 2. Every male citizen of the United States, and every male person of foreign birth, who may have declared his intention to become a citizen of the United States, according to law, not less than one year nor more than five years before he offers to vote, who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections by the people:

First—He shall have resided in the State one year immediately preceding the election at which he offers to vote.

Second—He shall have resided in the county, city, or town where he shall offer to vote at least sixty days immediately preceding the election.

SEC. 7. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of the United States; nor while engaged in the navigation of the waters of the State, or of

*Const. of Missouri, 1875.

the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any poor-house or other asylum at public expense; nor while confined in public prison.

SEC. 8. No person, while kept at any poor-house or other asylum, at public expense, nor while confined in any public prison, shall be entitled to vote at any election under the laws of the State.

SEC. 10. The General Assembly may enact laws excluding from the right of voting all persons convicted of felony or other infamous crime, of misdemeanors connected with the exercise of the right of suffrage.

SEC. 11. No officer, soldier (1) or marine in the Regular Army or Navy of the United States shall be entitled to vote at any election in this State.

NEBRASKA.

*ARTICLE VII.

SECTION 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the State six months and in the county, precinct or ward for the term provided by law, shall be an elector:

First—Citizens of the United States.

Second—Persons of foreign birth who shall have declared their intention to become citizens, conformably to the laws of the United States on the subject of naturalization, at least thirty days prior to an election.

SEC. 2. No person shall be qualified to vote who is *non compos mentis*, or who has been convicted of treason or felony under the laws of the State, or of the United States, unless restored to civil rights.

SEC. 3. Every elector in the actual military service of the United States, or of this State, and not in the Regular Army, may exercise the right of suffrage at such place and under such regulations as may be provided by law.

SEC. 4. No soldier, seaman or marine in the Army and Navy of the United States shall be deemed a resident of the State in consequence of being stationed therein.

An act of Congress passed in 1864 authorized "the inhabitants" of that portion of the Territory of Nebraska

(1) In all other State Constitutions containing this prohibitory provision, *seamen* in the naval service of the United States have been included among those debarred from voting. But naval seamen seem to have escaped the notice of the framers of the Constitution of Missouri; and, in consequence, an ordinary seaman employed in the United States navy may, if he be otherwise qualified, exercise the elective franchise in that State, although naval officers and marines are specially prohibited from voting.

*Constitution of Nebraska, 1875.

now represented in the State of Nebraska "to form for themselves a Constitution and State government, the State thus formed to be admitted into the Union on an equal footing with the original States." The Constitution which these "inhabitants" formed in 1866-67 made electors of "white persons of foreign birth who shall have declared their intention to become citizens conformable to the laws of the United States on the subject of naturalization." The Act of Admission passed by Congress in 1867 approved this Constitution, excepting so much of it as related to a race distinction in the exercise of the elective franchise, and provided that the act should be inoperative until the State Legislature in first session convened should change the fundamental condition so that within the State of Nebraska "there shall be no denial of the elective franchise, or of any other right, to any person, by reason of race or color, excepting Indians not taxed." The State Legislature complied with this condition of Congress, and Nebraska entered the Union "on an equal footing with the original States in all respects whatever."

In all of the Territories at the time of their conversion into States, there have been alien inhabitants exercising the rights of electors. The political status of these aliens as members of the new State has been defined by the Supreme Court of the United States in a decision rendered February 1, 1892, in the case of *Thayer vs. Boyd*—an appeal from the Supreme Court of Nebraska affecting the Governorship of that State growing out of the election of Boyd, a person of foreign birth, to that office.

Reference has been made to this case already (see note on page 36). Two points of great interest and importance relating to the admission of persons of foreign birth to Federal citizenship, are settled in this decision, namely :

First—That a technical compliance with the requirements of the laws adopted by Congress for “an uniform rule of naturalization” is not absolutely essential, but there may be occasion when an equivalent in lieu thereof may be accepted.

Second—That Federal citizenship is conferred upon such alien inhabitants of a Territory admitted to Statehood as come under the operation of the provisions of the Enabling Act, the State Constitution and the Act of Admission, without regard for the requirements of the naturalization laws, these acts constituting a collective naturalization of all alien inhabitants of the Territory.

The opinion in this case was written by Chief Justice Fuller and was concurred in by the majority of the court. The court held that the Enabling Act of Nebraska constituted the collective naturalization of all the inhabitants thereof at the time of its admission into the Union, except such as announced that they intended to retain their rights as citizens or subjects of a foreign nation, and that the various offices held by Boyd and the exercise of the right of suffrage by him, with the oaths of allegiance to the United States he took at various times, show clearly that it was his intention to become a citizen of the United States, and that, in fact, he so considered himself.

The opinion may be thus summarized : On January

13, 1891, leave was granted to John M. Thayer by the Supreme Court of Nebraska to file proceedings looking to ousting Boyd from the office of Governor of Nebraska. The point raised in the information filed by Thayer is that Boyd's father, although he had declared his intention to become a citizen of the United States and for years exercised unquestioned, in Ohio, the rights of voting and holding office, had, in fact, never taken out his final naturalization papers, and was, therefore, not a citizen; and that as James E. Boyd himself never had been naturalized, but voted and held office under the belief that his father had become a naturalized citizen while he was a minor, he was, under the Constitution, not a citizen, and, therefore, was not eligible to the office of Governor of Nebraska. The State Constitution requires the Governor shall be a citizen of the State for at least two years preceding his election.

Boyd, in his reply, claimed that the Enabling Act of Nebraska constituted the collective naturalization of all its inhabitants at the time of admission to Statehood, and also asserted that his father had in 1854 taken out his first naturalization papers, although the record did not show such fact.

After disposing of Thayer's right to bring suit against Boyd, the court says it understands it is insisted that Boyd was an alien because his disabilities as a foreign-born citizen had never been removed by naturalization. Congress, it adds, in the exercise of the power to establish an uniform rule of naturalization, has enacted general

laws for the naturalization of individuals, but that instances of collective naturalization by treaty or statute are numerous. There can be no doubt that in the admission of a State collective naturalization may be effected in accordance with the intention of Congress and the people applying for admission. The admission "on an equal footing with the original States, in all respects whatever," involves the adoption as citizens by the United States of those whom Congress makes members of the political community, and who are recognized as such in the formation of the new State with the consent of Congress. The question is not what the State may do in respect to citizenship, but what Congress may recognize in that regard in the formation of a State. The application of this doctrine is then made to the case of the State of Nebraska and its various proceedings looking to admission considered. One clause of the State Constitution adopted provided that "white persons of foreign birth who declared their intention to become citizens" should be considered electors, and this Congress amended by declaring it should not operate as a discrimination on account of color. These provisions, in connection with Section 14 of the same State Constitution, that no distinction shall ever be made by law between resident aliens and citizens in reference to property, seems to the court the clear recognition of a distinction between those who had and those who had not elected to become citizens. It follows from this that all who declared their intention to become citizens, Congress so regarded, and placed

those whose naturalization was incomplete in the same category with persons already citizens. But it is argued that James Boyd never declared his intention to become a citizen of the United States, although his father had, and that, because, as alleged, his father had not completed his naturalization before his son attained his majority, the latter cannot be held to have been made a citizen by the Admission Act of Nebraska. The statutes, it says, leave much to be desired with reference to nationality laws and the status of minors whose parents declare their intention, but do not take out final papers before their children reach 21 years of age. Clearly minors, the court says, acquire inchoate status by the declaration of intention on the part of their parents. If they attain majority before the parents complete naturalization they have the right to repudiate the status and accept foreign allegiance rather than hold fast to a citizenship which the parents' act initiated for them. Ordinarily, a minor makes application on his own behalf for naturalization, but it does not follow the equivalent may not on occasion be accepted in lieu of a technical compliance.

The history of Boyd is then traced, of his voting in Ohio in 1855, under the belief and assurance from his father that he (the father) had taken out his final papers. Then his long career in Nebraska as a voter, an officeholder and soldier against the Indians, is cited, showing that for over thirty years he enjoyed all the rights of citizenship. Under the circumstances James E. Boyd, the court says, is entitled to claim, if his father did not

complete his naturalization before his son had attained a majority, that the son cannot be held to have occupied the inchoate status he acquired by a declaration of intention. On the contrary, the oaths taken and his action as a citizen, entitled him to insist upon the benefit of his father's act, and in being placed in the same category as his father would have occupied if he had emigrated to the Territory of Nebraska ; that, in short, he was, within the intent and meaning of the acts of Congress in relation to citizens, a citizen of the Territory, and was made a citizen of the United States and of the State of Nebraska under the organic and enabling acts and by the act of admission.

NORTH CAROLINA.

*ARTICLE I.

SECTION 22. As political rights and privileges are not dependent upon, or modified by property, therefore no qualification ought to affect the right to hold office.

ARTICLE VI.

SECTION 1. Every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided in the State twelve months next preceding the election, and ninety days in the county in which he offers to vote, shall be deemed an elector. But no person who, upon conviction or confession in open court, shall be adjudged guilty of felony, or of any other crime infamous by the laws of this State, and hereafter committed (1), shall be deemed an elector, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

SEC. 2. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors; and no person shall be al-

*Constitution of North Carolina, 1876.

(1) *i. e.*, after January 1, 1877.

lowed to vote without registration, or to register without first taking an oath or affirmation to support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith.

SEC. 4. Every voter, except as hereinafter provided, shall be eligible to office . * * * *

SEC. 5. The following classes of persons shall be disqualified from office :
First—All persons who shall deny the being of Almighty God.

Second—All persons who shall have been convicted of treason, perjury, or any other infamous crime, since becoming citizens of the United States, or of corruption or malpractice in office, unless such person shall have been legally restored to the rights of citizenship.

NORTH DAKOTA.

Civilized descendants of Indians granted the right to vote.

Women permitted to vote at school elections.

*ARTICLE V.

SECTION 121. Every male person of the age of twenty-one years and upwards, belonging to either of the following classes, who shall have resided in the State one year, in the county six months, and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election :

First—Citizens of the United States.

Second—Persons of foreign birth who have declared their intention to become citizens, one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

Third—Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

SEC. 122. The Legislative Assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion, to all citizens of mature age and sound mind, not convicted of crime, without regard to sex, but no law extending the right of suffrage shall be in force until adopted by a majority of the electors of the State voting at a general election.

SEC. 126. No soldier, seaman, or marine in the Army or Navy of

*Const. of North Dakota, 1889.

the United States, shall be deemed a resident of this State in consequence of his being stationed here.

SEC. 128. Any woman having the qualifications enumerated in Section 121 of this Article as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote for all school officers, and upon all questions pertaining solely to school purposes.

SEC. 127. No person who is under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

OREGON.

*ARTICLE II.

SECTION 2. In all elections not otherwise provided for by this Constitution, every white (1) male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, and every white (1) male of foreign birth, of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law.

SEC. 3. No idiot or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited by a conviction of any crime which is punishable by imprisonment in the penitentiary.

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State, or of the United States, or on the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison.

SEC. 5. No soldier, seaman or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same, nor shall any such soldier, seaman, or marine have the right to vote.

*Constitution of Oregon, 1857.

(1) Annulled by XVth Amendment to Fed. Const.

SEC. 6. No negro, Chinaman, or mulatto shall have the right of suffrage (1).

SEC. 8. The Legislative Assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, and other improper conduct.

SEC. 17. All qualified electors shall vote in the election precinct in the county, where they may reside, for county officers, or in the State for State officers, or in any county of a Congressional district in which such electors may reside for members of Congress.

SOUTH DAKOTA.

Women and Indians ineligible as electors.

Women may vote at elections for school purposes.

Women may hold any office not otherwise provided for.

*ARTICLE VII.

SEC. 1. Every male person resident of this State, who shall be of the age of twenty-one years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the Territory of Dakota at the date of the ratification of this Constitution by the people, or who shall have resided in the United States one year, in this State six months, in the county thirty days, and in the election precinct where he offers his vote ten days next preceding any election, shall be deemed a qualified elector at such election:

First—Citizens of the United States.

Second—Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

[Sec. 2 of the same article provided for the submission to popular vote at the general election next ensuing, by the State Legislature at its first session, of the question, "Shall the word 'male' be stricken from the article of the Constitution relating to elections and to the right of suffrage?" This was duly done, and was answered by the electors in the negative. At the same general election, in accordance with another act of the Legislature, the following proposed amendment to the Constitution was voted upon: "No Indian who sus-

(1) Inoperative excepting as to *Chinamen*, because in violation of the XVth Amendment to the Federal Constitution.

*Constitution of South Dakota, 1889.

tains tribal relations, receives support in whole or in part from the Government of the United States, or holds untaxable land in severalty, shall be permitted to vote at any election held under this Constitution?" and the amendment prevailed. Woman and the untaxed Indian retaining his tribal relations were, therefore, both excluded from the right to vote.]

SEC. 6. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of the United States, or of this State, or in the military or naval service of the United States.

SEC. 7. No soldier, seaman or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of his being stationed therein.

SEC. 8. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony be qualified to vote at any election, unless restored to civil rights.

SEC. 9. Any woman having the qualifications enumerated in Section 1 of this article, as to age, residence and citizenship, and including those now qualified by the laws of the Territory, may vote at any election held solely for school purposes, and may hold any office in this State except as otherwise provided for in this Constitution.

WISCONSIN.

Civilized persons of Indian descent granted the right of suffrage.

*ARTICLE III.

SECTION 1. Every male person of the age of twenty-one years and upward, belonging to either of the following classes, who shall have resided in the State for one year next preceding any election, shall be deemed a qualified elector at such election:

(1) First—White citizens of the United States.

(1) Second—White persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

Third—Persons of Indian blood, who have once been declared by law of Congress to be citizens of the United States, any subsequent law of Congress to the contrary notwithstanding.

Fourth—Civilized persons of Indian descent, not members of any tribe:

*Constitution of 1848.

(1) Held by the Sup. Court in 1866, that the right of suffrage was extended to colored persons by vote of the people at a general election held Nov. 6, 1849.

Provided, That the Legislature may, at any time, extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election, and approved by a majority of all the votes cast at such election.

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 4. No person shall be deemed to have lost his residence in this State by reason of his absence on business of the United States or of this State.

SEC. 5. No soldier, seaman or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of being stationed within the same.

SEC. 6. Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery or larceny, or of any infamous crime, and depriving every person who shall make, or become, directly or indirectly, interested in any bet or wager depending upon the result of any election, from the right to vote at such election.

ARTICLE XIII.

SECTION 2. Any inhabitant of this State who may hereafter be engaged, either directly or indirectly, in a duel, either as principal or accessory, shall forever be disqualified as an elector, and from holding any office under the Constitution and laws of this State, and may be punished in such other manner as shall be prescribed by law.

CLASS III.

I. WEST VIRGINIA.

Constitutional provisions of States restricting the right of suffrage to "male citizens of the State."

WEST VIRGINIA.

*ARTICLE IV.

SEC. 1. The male citizens of the State (1) shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person, who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the State for one year and of the county in which he offers to vote

*Constitution of West Virginia, 1872.

(1) Federal Citizens only State citizens. Art. II, Sec. 3.

for sixty days next preceding such offer, shall be permitted to vote while such disability continues; but no person in the military, naval or marine service of the United States shall be deemed a resident of this State by reason of being stationed therein.

SEC. 12. No person shall ever be denied or refused the right or privilege of voting at an election because his name is not or has not been registered or listed as a qualified voter.

CLASS IV.

1. KENTUCKY. 2. NEW YORK.

Constitutional provisions of States restricting the right of suffrage to "male citizens."

KENTUCKY.

*ARTICLE II.

SEC. 8. Every free white (1) male citizen (2) of the age of twenty-one years, who has resided in the State two years, or in the county, town or city in which he offers to vote one year, next preceding the election, shall be a voter; but such voter shall have been for sixty days next preceding the election a resident of the precinct in which he offers to vote, and he shall vote in said precinct, and not elsewhere.

ARTICLE VIII.

SEC. 4. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other crimes or high misdemeanors (3). The privilege of free suffrage shall be sup-

*Constitution of Kentucky, 1850.

(1) Annulled by the Fifteenth Amendment to the Federal Constitution.

(2) Foreigners who have resided in the State, county, and precinct the length of time required by the Constitution are entitled to vote immediately after being naturalized.--*Morgan vs. Dudley*, 18 B. M., 724; *Gen. Stats. Ky.*, 1887, p. 94, note 1.

(3) By an act of the Legislature (Art. 12, Chap. 32, Rev. Stats. of Kentucky, 1852), which went into effect July 1, 1852, any person sending or accepting a challenge to fight a duel, or any person carrying such challenge or consenting to act as a second, upon conviction, forfeited office and the right of suffrage for seven years.

A person receiving a bribe is subject to fine or imprisonment, or both, and to exclusion from office and the right of suffrage; and a person bribing another is liable to a fine or imprisonment, or both, and to exclusion from office and the right of suffrage for five years.

Any person condemned to confinement in the penitentiary for larceny, robbery, forgery, counterfeiting or perjury, or any such like crime, shall forfeit his right of suffrage for ten years, after his conviction.

ported by laws regulating elections, and prohibiting, under adequate penalties, all undue influences thereon from power, bribery, tumult or other improper practices.

SEC. 12. Absence on business of this State, or the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under this commonwealth, under the exceptions contained in this Constitution.

NEW YORK.

*ARTICLE I.

SEC. 1. No member* of this State shall be disfranchised, or deprived of any of the rights and privileges secured to any citizens thereof, unless by the law of the land or the judgment of his peers.

ARTICLE II.

SEC. 1. Every male citizen of the age of twenty one years, who shall have been a citizen for ten days and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall be at the time a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people: *Provided*, That in time of war no elector in the actual military service of the State, or of the United States, in the Army and Navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

SEC. 2. No person who shall receive, expect, or offer to receive, or pay, offer, or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm, before

*Constitution of New York of 1846 as amended in 1874.

such officers, that he has not received or offered, does not expect to receive, has not paid, offered, or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

SEC. 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

GENERAL ELECTION LAW.

TITLE I.

SEC. 5. No person who shall have been convicted of an infamous crime deemed by the laws a felony, at any time previous to an election, shall be permitted to vote thereat; unless he shall have been pardoned before or after his term of imprisonment has expired, and restored by pardon to all the rights of a citizen.

CLASS V.

I. NEW HAMPSHIRE.

Constitutional provisions of States whose qualified voters are "male inhabitants."

NEW HAMPSHIRE.

*PART I.

ARTICLE II. All elections ought to be free, and every inhabitant of the State having the proper qualifications has equal right to elect and to be elected into office.

*Constitution of New Hampshire 1792, with amendments of 1877.

PART II.

SECTION 28. The Senate shall be the first branch of the Legislature, and the Senators shall be chosen in the following manner, viz. : every male inhabitant of each town and parish with town privileges, and places unincorporated, in this State, of twenty-one years of age and upward, excepting paupers and persons excused from paying taxes at their own request, shall have a right, at the biennial or other meeting of the inhabitants of said towns and parishes, to be duly warned and holden biennially forever in the month of November, to vote in the town or parish wherein he dwells, for the Senator in the district whereof he is a member.

SEC. 30. And every person qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this State, in the town, parish and plantation where he dwelleth and hath his home.

SEC. 31. And the inhabitants of plantations and places unincorporated, qualified as this Constitution provides, who are or shall be required to assess taxes upon themselves toward the support of government, or shall be taxed therefor, shall have the same privilege of voting for Senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose shall be holden biennially in the month of November, at such places respectively therein as the assessors thereof shall direct ; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns by this Constitution.

 CLASS VI.

I. WYOMING.

Constitutional provisions of States granting the right of suffrage to "all citizens of the United States," irrespective of sex.

WYOMING.

Voters must be able to read, unless prevented by physical disability.

*ARTICLE VI.

SECTION I. The rights of citizens of the State of Wyoming to vote and hold

*Constitution of Wyoming, 1889.

office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy all civil, political and religious rights and privileges.

SEC. 2. Every citizen of the United States of the age of twenty-one years and upwards, who has resided in the State or Territory one year and in the county wherein such residence is located sixty days next preceding any election, shall be entitled to vote at such election, except as herein otherwise provided.

SEC. 5. No person shall be deemed a qualified elector of this State, unless such a person be a citizen of the United States.

SEC. 6. All idiots, insane persons, and persons convicted of infamous crimes, unless restored to civil rights, are excluded from the elective franchise.

SEC. 8. No soldier, seaman or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of his being stationed here.

SEC. 9. No person shall have the right to vote who shall not be able to read the Constitution of this State. The provisions of this section shall not apply to any person prevented by physical disability from complying with its requirements.

SEC. 10. Nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this Constitution, unless disqualified by the restrictions of Section 6 of this Article. After five years from the adoption of this Constitution none but citizens of the United States shall have the right to vote.

SEC. 12. No person qualified to be an elector of the State of Wyoming, shall be allowed to vote at any general or special election hereafter to be holden in this State, unless he or she shall have registered as a voter according to law, unless the failure to register is caused by sickness or absence, for which provision shall be made by law. The Legislature of the State shall enact such laws as will carry into effect the provisions of this section, which enactment shall be subject to amendment, but shall never be repealed; but this section shall not apply to the first election held under this Constitution.

CLASS VII.

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| 1. CONNECTICUT. | 5. PENNSYLVANIA. |
| 2. DELAWARE. | 6. RHODE ISLAND. |
| 3. GEORGIA. | 7. TENNESSEE. |
| 4. MASSACHUSETTS. | 8. TEXAS. |
| 9. VIRGINIA. | |

Constitutional provisions of States granting the right of suffrage to "male citizens," or to "male citizens of the United States," or to "male citizens of the United States and male aliens who have declared their intentions," under special limitations.

CONNECTICUT.

An educational qualification required of electors.

ARTICLE VI—CONSTITUTION 1818.

SEC. 3. The privilege of an elector shall be forfeited by a conviction of bribery, forgery, perjury, dueling, fraudulent bankruptcy, theft, or other offense, for which an infamous punishment is inflicted.

SEC. 4. Every elector shall be eligible to any office in this State, except in the cases provided for in this Constitution.

ARTICLE VIII—CONSTITUTIONAL AMENDMENT 1845.

Every white male citizen of the United States, who shall have attained the age of twenty-one years, who shall have resided in this State for a term of one year next preceding, and in the town in which he may offer himself to be entitled to the privilege of an elector at least six months next preceding the time he may so offer himself, and shall sustain a good moral character, shall, on his taking such oath as may be prescribed by law, be an elector.

ARTICLE XI—CONSTITUTIONAL AMENDMENT 1855.

Every person shall be able to read any article of the Constitution, or any section of the Statutes of the State, before being admitted as an elector.

ARTICLE XVII—CONSTITUTIONAL AMENDMENT 1875.

The General Assembly shall have power, by a vote of two-thirds of the members of both branches, to restore the privileges of an elector to those who may have forfeited the same by a conviction of crime.

DELAWARE.

Tax qualifications requisite in an elector twenty-two years of age and upwards.

*ARTICLE IV.

SECTION I. All elections for Governor, Senators, Representatives, Sheriffs and Coroners shall be held on the Tuesday next after the first Monday in the month of November of the year in which they are to be held, and be by ballot; and in such elections every free white male citizen of the age of twenty-two years, or upwards, having resided in the State one year next before the election, and the last month thereof in the county where he offers to vote, and having within two years next before the election paid a county tax, which shall have been assessed at least six months before the election, shall enjoy the right of an elector; and every free white male citizen of the age of twenty-one years, and under the age of twenty-two years, having resided as aforesaid, shall be entitled to vote without payment of any tax; provided, that no person in the military, naval or marine service of the United States shall be considered as acquiring a residence in this State, by being stationed in any garrison, barrack or military or naval place or station within this State; and no idiot, or insane person, or pauper, or person convicted of a crime deemed by law felony, shall enjoy the right of an elector; and that the Legislature may impose the forfeiture of the right of suffrage as a punishment for crime.

 GEORGIA.

Tax qualification.

†ARTICLE II.

SECTION I. Paragraph II. Every male citizen of the United States (except as hereinafter provided), twenty-one years of age, who shall have resided in this State one year next preceding the election, and shall have resided six months in the county in which he offers to vote, and shall have paid all taxes which may hereafter be required of him, and which he may have had an opportunity of paying, agreeably to law, except for the year of the election, shall be deemed an elector: *Provided*, that no soldier, sailor or marine in the military or naval service of the United States, shall acquire the rights of an elector by reason of being stationed on duty in this State; and no person shall vote who, if challenged, shall refuse to take the following oath, or affirmation:

“I do swear (or affirm) that I am twenty one years of age, have resided in this State one year, and in this county six months, next preceding this election. I have paid all taxes which, since the adoption of the present Constitution of this State, have been required of me previous to this year, and which

 *Const. of Delaware, 1831.

†Const. of Georgia, 1877.

I have had an opportunity to pay, and I have not voted at this election "

SEC. 2. Paragraph 1. The General Assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote or hold any office, or appointment of honor or trust in this State, to-wit :

First—Those who have been convicted, in any court of competent jurisdiction, of treason against the State, of embezzlement of public funds, malfeasance in office, bribery or larceny, or of any crime involving moral turpitude, punishable by the laws of this State with imprisonment in the penitentiary, unless such person shall have been pardoned.

Second—Idiots and insane persons.

MASSACHUSETTS.

Tax and educational qualifications.

ARTICLE III. (1) Every male citizen of twenty-one years of age and upwards (excepting paupers and persons under guardianship), who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote six calendar months next preceding any election of Governor, Lieutenant-Governor, Senators or Representatives, and who shall have paid, by himself or his parent, master, or guardian, any State or county tax which shall, within two years next preceding such election, have been assessed upon him in any town or district of this commonwealth, and also every citizen who shall be by law exempted from taxation, and who shall be in all other respects qualified as above mentioned, shall have a right to vote in such election of Governor, Lieutenant-Governor, Senators and Representatives, and no other person shall be entitled to vote in such elections.

(2) ARTICLE XX. No person shall have the right to vote, or be eligible to office under the Constitution of this commonwealth, who shall not be able to read the Constitution in the English language, and write his name: *Provided, however,* that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards at the time this amendment shall take effect.

[In 1859 an amendment to the Constitution was adopted prohibiting persons of foreign birth from holding office or voting unless they had resided at least two years within the jurisdiction of the United States subsequent to their naturalization, but this amendment was annulled in 1863.]

(1) Amendment to Const. of Mass. of 1780; ratified 1822.

(2) Const. amendment, ratified 1857.

PENNSYLVANIA.

Tax limitations.

Temporary disqualifications for voting.

*ARTICLE I.

SEC. 5. Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

ARTICLE VIII.

SECTION I. Every male citizen twenty-one years of age, possessing the following qualifications, shall be entitled to vote at all elections:

First—He shall have been a citizen of the United States at least one month.

Second—He shall have resided in the State one year (or if, having previously been a qualified elector or native-born citizen of the State, he shall have removed therefrom and returned, then six months), immediately preceding the election.

Third—He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

Fourth—If twenty-two years of age or upwards, he shall have paid within two years a State or county tax, which shall have been assessed at least two months, and paid at least one month, before the election.

SEC. 6. Whenever any of the qualified electors of this commonwealth shall be in actual military service, under a requisition from the President of the United States or by the authority of this commonwealth, such electors may exercise the right of suffrage in all elections by the citizens, under such regulations as are or shall be prescribed by law, as fully as if they were present at their usual places of election.

SEC. 7. All laws regulating the holding of elections by the citizens or for the registration of electors, shall be uniform throughout the State, but no elector shall be deprived of the privilege of voting by reason of his name not being registered.

SEC. 8. Any person who shall give, or promise, or offer to give, to an elector, any money, reward, or other valuable consideration for his vote at an election, or for withholding the same, or who shall give or promise to give such consideration to any other person or party for such elector's vote, or for the withholding thereof, and any elector who shall receive or agree to receive, for himself or for another, any money, reward, or other valuable consideration for his vote at an election, or for withholding the same, shall thereby forfeit the

*Const. of Pennsylvania, 1873.

right to vote at such election, and any elector whose right to vote shall be challenged for such cause before the election officers, shall be required to swear or affirm that the matter of the challenge is untrue before his vote shall be received.

SEC. 9. Any person who shall, while a candidate for office, be guilty of bribery, fraud, or wilful violation of any election law, shall be forever disqualified from holding an office of trust or profit in this commonwealth; and any person convicted of wilful violation of the election laws shall, in addition to any penalties provided by law, be deprived of the right of suffrage absolutely for a term of four years.

SEC. 13. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while employed in the service, either civil or military, of this State or of the United States, nor while engaged in the navigation of the waters of the State or of the United States, or on the high seas, nor while a student of any institution of learning, nor while kept in any poor-house or other asylum at public expense, nor while confined in public prison.

RHODE ISLAND.

Freehold and Tax Limitations.

Residents on lands ceded to the United States denied the privilege of electors.

* ARTICLE II.

SECTION I. Every male citizen of the United States of the age of twenty-one years, who has had his residence and his home in this State one year, and in the town or city in which he may claim a right to vote six months, next preceding the time of voting, and who is really and truly possessed in his own right of real estate in such town or city of the value of one hundred and thirty-four dollars, over and above all incumbrances, or which shall rent for seven dollars per annum, over and above any rent received, or the interest of any incumbrances thereon, being an estate in fee-simple, fee-tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least ninety days, shall hereafter have a right to vote at the election of all civil officers, and on all questions, in all legal town or ward meetings, so long as he continues so qualified. And if any person hereinbefore described shall own any such estate within this State out of the town or

*Const. of Rhode Island, 1842.

city in which he resides, he shall have a right to vote in the election of all general officers and members of the General Assembly, in the town or city in which he shall have had his residence and home for the term of six months next preceding the election, upon producing a certificate from the clerk of the town or city in which his estate lies, bearing date within ten days of the time of his voting, setting forth that such person has a sufficient estate therein to qualify him as a voter, and that the deed, if any, has been recorded ninety days.

SEC. 2. Every male native citizen of the United States, of the age of twenty-one years, who has had his residence and home in this State for two years, and in the town or city in which he may offer to vote, six months, next preceding the time of voting, whose name is registered pursuant to the act calling the convention to frame this Constitution, or shall be registered in the office of the clerk of such town or city, at least seven days before the time he shall offer to vote, and before the last day of December in the present year, and who has paid or shall pay a tax or taxes, assessed upon his estate within this State, and within a year of the time of voting, to the amount of one dollar, or who shall voluntarily pay, at least seven days before the time he shall offer to vote, and before the said last day of December, to the clerk or treasurer of the town or city where he resides, the sum of one dollar, for the support of public schools therein, and shall make proof of the same, by the certificate of the clerk, treasurer, or collector of any town or city where such payment is made; or who, being so registered, has been enrolled in any military company in this State, and done military service or duty therein, within the present year, pursuant to law, and shall (until other proof is required by law) prove by the certificate of the officer legally commanding the regiment, or chartered, or legally authorized volunteer company, in which he may have served or done duty, that he has been equipped and done duty according to law, or by the certificate of the commissioners upon military claims that he has performed military service, shall have a right to vote in the election of all civil officers and on all questions in all legally organized town or ward meetings, until the end of the first year after the adoption of this Constitution, or until the end of the year eighteen hundred and forty-three. From and after that time, every such citizen, who has had the residence herein required, and whose name shall be registered in the town where he resides, on or before the last day of December in the year next preceding the time of his voting, and who shall show by legal proof that he has for and within the year next preceding the time he shall offer to vote paid a tax or taxes assessed against him in any town or city in this State to the amount of one dollar, or that he has been enrolled in a military company in this State, been equipped and done duty therein, according to law, and at least for one day during such year, shall have a right to vote in the election of all civil officers and on all questions in all legally organized town or ward meetings:

Provided, That no person shall at any time be allowed to vote in the election of the City Council of the city of Providence, or upon any proposition to impose a tax, or for the expenditure of money in any town or city, unless he shall within the year next preceding have paid a tax assessed upon his property therein, valued at least at one hundred and thirty-four dollars.

SEC. 3. The assessors of each town or city shall annually assess upon every person whose name shall be registered a tax of one dollar, or such sum as with his other taxes shall amount to one dollar, which registry tax shall be paid into the treasury of such town or city, and be applied to the support of public schools therein. But no compulsory process shall issue for the collection of any registry tax: *Provided*, That the registry tax of every person who has performed military duty, according to the provisions of the preceding section, shall be remitted for the year he shall perform such duty; and the registry tax assessed upon any mariner for any year while he is at sea shall, upon his application, be remitted, and no person shall be allowed to vote whose registry tax for either of the two years next preceding the time of voting is not paid or remitted, as herein provided.

SEC. 4. No person in the military, naval, marine, or any other service of the United States, shall be considered as having the required residence by reason of being employed in any garrison, barrack, or military or naval station in the State, and no pauper, lunatic, person *non compos mentis*, person under guardianship, or member of the Narragansett tribe of Indians, shall be permitted to be registered or to vote; nor shall any person convicted of bribery, or of any crime deemed infamous, at common law, be permitted to exercise that privilege until he be expressly restored thereto by the General Assembly.

SEC. 5. Persons residing on lands ceded by this State to the United States, shall not be entitled to exercise the privilege of electors.

SEC. 6. The General Assembly shall have full power to provide for a registry of voters, to prescribe the manner of conducting the elections, the form of certificates, the nature of the residence to be required in case of a dispute as to the right of any person to vote, and generally to enact all laws necessary to carry this article into effect, and to prevent abuse, corruption and fraud in voting.

CONSTITUTIONAL AMENDMENT, ADOPTED 1864.

ARTICLE IV. Electors of this State, who, in time of war, are absent from the State, in the actual military service of the United States, being otherwise qualified, shall have a right to vote in all elections in the State for President and Vice-President of the United States, Representatives in Congress, and general officers of the State. The General Assembly shall have full power to provide by law for carrying this article into effect; and until such provision shall be made by law, every such absent elector on the day of such elections may deliver a written or printed ballot, with the names of the persons voted for

thereon, and his Christian and surname, and his voting residence in the State, written at length on the back thereof, to the officer commanding the regiment or company to which he belongs; and all such ballots certified by such commanding officer to have been given by the elector whose name is written thereon, and returned by such commanding officer to the Secretary of State within the time prescribed by law for counting the votes in such elections, shall be received and counted with the same effect as if given by such elector in open town, ward, or district meeting; and the clerk of each town or city, until otherwise provided by law, shall, within five days after any such election, transmit to the Secretary of State a certified list of the names of all such electors on their respective voting lists.

TENNESSEE.

Poll tax limitation.

*ARTICLE I.

SECTION 5. That elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.

ARTICLE IV.

SECTION 1. Every male person of the age or twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein he may offer his vote for six months next preceding the day of election, shall be entitled to vote for members of the General Assembly, and other civil officers for the county or district in which he resides; and there shall be no qualifications attached to the right of suffrage, except that each voter shall give to the judges of election, where he offers to vote, satisfactory evidence that he has paid the poll taxes assessed against him for such preceding period as the Legislature shall prescribe, and at such time as may be provided by law; without which his vote cannot be received. And all male citizens of the State shall be subject to the payment of poll taxes and the performance of military duty within such ages as may be prescribed by law. The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot-box

SEC. 2. Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.

*Const. of Tennessee, 1870.

TEXAS.

Provisional tax limitation in incorporated towns and cities.

*ARTICLE VI.

SECTION 1. The following classes of persons shall not be allowed to vote in this State, to-wit :

First—Persons under twenty-one years of age.

Second—Idiots and lunatics.

Third—All paupers supported by any county.

Fourth—All persons convicted of any felony, subject to such exceptions as the Legislature may make.

Fifth—All soldiers, marines, and seamen employed in the service of the Army and Navy of the United States.

SEC. 2 Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector ; and every male person of foreign birth, subject to none of the foregoing disqualifications, who, at any time before an election, shall have declared his intention to become a citizen of the United States, in accordance with the Federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector ; and all electors shall vote in the election precinct of their residence : *Provided*, That electors living in any unorganized county may vote at any election precinct in the county to which such county is attached for judicial purposes.

SEC. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town shall have the right to vote for Mayor and all other elective officers ; but in all elections to determine expenditure of money or assumption of debt only those shall be qualified to vote who pay taxes on property in said city or incorporated town : *Provided*, That no poll tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

SEC. 4. In all elections by the people the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the

*Const. of Texas, 1876.

purity of the ballot-box ; but no law shall ever be enacted requiring a registration of the voters of the State.

ARTICLE XVI.

SECTION 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who have been or shall hereafter be convicted of bribery, perjury or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, or other improper practice.

SEC. 4. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

 VIRGINIA.

Poll tax limitation.

*ARTICLE I.

SECTION 8. That all elections ought to be free, and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community have the right of suffrage. * * *

ARTICLE III.

SECTION 1. Every citizen of the United States, twenty-one years old, who shall have been a resident of the State twelve months, and of the county, city or town in which he shall offer to vote, three months next preceding any election, and shall have paid to the State, before the day of election, the capitation tax required by law for the preceding year, shall be entitled to vote for members of the General Assembly and all officers elected by the people : *Provided*, That no officer, soldier, seaman or marine of the United States Army or Navy shall be considered a resident of this State, by reason of being stationed therein : *And provided also*, That the following persons shall be excluded from voting :

First—Idiots and lunatics.

Second—Persons convicted of bribery in any election, embezzlement of public funds, treason, felony or petit larceny.

Third—No person who, while a citizen of this State, has, since the adoption

*Const. of Virginia, 1870, as amended, 1876

of this Constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly conveyed a challenge, or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit, or trust, under this Constitution.

II. VOTING QUALIFICATIONS IN THE TERRITORIES.

Congress has provided the Territories with an uniform electoral law specifying who shall be voters and who shall not enjoy the right of suffrage, leaving other qualifications of voters to be prescribed by the Legislative Assembly.

(1) SECTION 1859. Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens in any Territory hereafter organized, and who are actual residents of such Territory at the time of the organization thereof, shall be entitled to vote at the first election in such Territory, and shall hold any office therein, subject, nevertheless, to the limitations specified in the next section.

SEC. 1860. At all subsequent elections, however, in any Territory hereafter organized by Congress, as well as at any elections in Territories already organized the qualifications of voters and of holding office shall be such as may be prescribed by the Legislative Assembly of such Territory, subject, nevertheless, to the following restrictions on the power of the Legislative Assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such, and have taken an oath to support the Constitution and Government of the United States.

Second. There shall be no denial of the elective franchise, or of holding office, to a citizen on account of race, color, or previous condition of servitude.

Third; No officer, soldier, seaman, mariner, or other person in the Army or Navy, or attached to troops in the service of the United States, shall be al-

lowed to vote in any Territory; by reason of being on service therein, unless such Territory is, and has been for the past six months, his permanent domicile.

Fourth. No person belonging to the Army or Navy shall be elected to or hold any civil office or appointment in any Territory.

III. THE DISTRICT OF COLUMBIA.

The District of Columbia is the seat of the General Government, as provided for in the Federal Constitution. Politically, it is a unique structure in the Federal organism. It has a separate and distinct being and purpose, but it has no independent power or action. It has no political representation, nor has it any voice in shaping its government. The Federal Constitution places it under the control of the Congress which exercised it in a direct way prior to February 21, 1871. On that date, Congress passed an act repealing the charters of Georgetown and Washington, and transferring all their property, and the property of the outlying territory called the county of Washington, to the District, and providing the District with a territorial form of government, consisting of a Governor appointed by the President, and a Legislative Assembly, and a Delegate to Congress elected by the people. Under this act, the inhabitants of the District were given the right of suffrage, the qualifications of voters being thus defined:

SECTION 7. *And be it further enacted,* That all male citizens of the United States, above the age of twenty-one years, who shall have been actual residents of said District for three months prior to the passage of this act, except such as are *non compos mentis*, and persons convicted of infamous crimes, shall be entitled to vote at said election, in the election district or precinct in which he shall then reside, and shall have so resided for thirty

days immediately preceding said election, and shall be eligible to any office within the said District, and for all subsequent elections, twelve months' prior residence shall be required to constitute a voter ; but the Legislative Assembly shall have no right to abridge or limit the right of suffrage.

The territorial existence of the District was short-lived, for on June 20, 1874, Congress passed an act repealing the act of 1871, so far as it provided for an Executive, a Secretary of the District, a Legislative Assembly, a Board of Public Works and a Delegate to Congress ; in other words, all the machinery of a territorial government. With this change, the right of suffrage was taken away from the inhabitants of the District. It was transformed by an act of June 11, 1878, into a municipal corporation governed by a Commission consisting of two civilians appointed by the President, and an officer of the corps of the United States Engineers specially detailed for that duty. This Commission performs executive functions and Congress provides the necessary legislation for the District ; but the District has had no representation in Congress since the expiration of the term of the Delegate holding a seat at the time of the passage of the act of 1874. Public representations and office holders residing in the District retain a voting residence in the State whence they come, and they may exercise the right of suffrage by visiting their respective voting precincts ; but Federal citizens residing in the District who are not in the service of the Federal government or of any State, do not enjoy the elective franchise.

IV. ANALYSIS OF VOTING QUALIFICATIONS.

It has already been explained that the "right to vote" and "citizenship" are not synonymous terms. There is only one State in the Union in which an almost perfect synonymy occurs, namely, in Wyoming, where the suffrage is extended to citizens of both sexes; but the right to vote there is qualified by the Constitutional requirement that the citizen shall be able to read the organic law of the State, unless prevented from doing so by physical disability, such as blindness or loss of the power of speech. In twenty-six of the States, the right of suffrage is restricted to adult male citizens of the United States, and in ten States property or educational (or both) qualifications are required of the voter. In some of these States, however, the right of suffrage which was acquired by foreigners under previous Constitutions, or under the act of conversion from a Territory to a State, is confirmed under existing Constitutions. Disregarding this exceptional feature, there are only twenty-seven of the forty-four States constituting the Federal Union, in which there exists an approximate synonymy between "citizenship" and the "right of suffrage." In the remaining seventeen States there is no special relationship between citizenship and the suffrage, for, in each one of them, men who are not citizens, being of foreign birth and owing allegiance to a

foreign government, have equal rights at the polls with native and naturalized citizens of the United States. These aliens are required in some of the States to declare their intention to become citizens of the United States before they are endowed with the right of suffrage ; but in others, it is not deemed necessary that the alien seeking the privilege shall even go through this formula, in order to receive it. Such aliens are constituted electors of the State, and are possessed of the "qualifications requisite for electors of the most numerous branch of the State Legislature," and, as such, empowered under the Federal Constitution to vote for members of the National House of Representatives and for Presidential electors ; and in some States these alien electors are privileged to become members of the State Legislature (1). It is possible, therefore, in those States where the privilege of voting is granted to alien residents, and in which the number of foreign residents is large, for the votes of aliens to determine the result in the election of Representatives to the Lower House of Congress and of Presidential electors, and to determine also the political complexion of the State Legislature, and thus indirectly influence the election of United States Senators. It frequently occurs that this anomaly in the qualifications of State electors exists in States bordering on one another. In one of these States, an alien resident may exercise the right of an elector without ever becoming a citizen of the United States, neutralizing the vote of a Federal citizen on all

(1) See chapter on "Office holding and the Elective Franchise."

questions submitted for settlement to the popular vote, so long as his residence within the State is undisturbed ; but should he cross the border and establish his residence in the neighboring State, he at once ceases to be an elector and is unable to exercise any of the privileges of an elector, unless he becomes a citizen of the United States by due process of law. For instance, an alien resident who is an elector in Oregon, by a change of residence into the neighboring State of Nevada or California, forfeits his electorship until such time as he may become a Federal citizen by naturalization. These differences can never be eradicated until the several States shall have adopted uniform qualifications "for electors of the most numerous branch of the State Legislature," based upon birth and the "uniform rule of naturalization" established by Congress.

Elections in all the States and Territories are determined by ballot. In this respect, uniformity prevails throughout the country. But in the size, color, composition, preparation and deposition of the ballot by qualified voters, great dissimilarity exists between the several States. These features in the ballots used by voters are due to the independent action of each State or Territorial Legislature.

The object of voting by ballot is to protect the voter's freedom of action from interference, or the disclosure of the nature of his vote. But the election laws of some States have been so framed that the object of the ballot is defeated. Of recent years public opinion has favored

ballot-reform, and the agitation has been vigorous enough to induce thirty-four States to adopt a secret system, which promises ample protection to the voter. This system is known as the Australian system, from the fact that it originated in that country. None of the thirty-four States which have adopted it, have, however, adhered strictly to the original plan. Each State has modified it in a greater or less degree. Massachusetts was the first of the States to adopt it, which occurred in 1888. In the following year Connecticut, Indiana, Michigan, Minnesota, Montana, Rhode Island, Tennessee and Wisconsin adopted it. Maryland, Mississippi, New Jersey, New York, Vermont, Washington and Wyoming fell in line in 1890, and the system was adopted in 1891 by Arkansas, California, Colorado, Delaware, Idaho, Illinois, Kentucky, Maine, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Texas and West Virginia.

The system has worked with varied success in the several States that have adopted it (1). It has been most successful in those States which have adhered most closely to the plan in vogue in the English colonies whence it originated. But it has been sufficiently successful everywhere to demonstrate that it is a great improvement on the old plan of balloting, and other States than those named above are likely to adopt it ultimately.

(1) *The Forum* for January, 1892.

V. OFFICE-HOLDING AND THE ELECTIVE FRANCHISE.

Office-holding and the elective franchise are intimately associated with one another. The exercise of the suffrage is really the origin of office-holding. But the right to exercise the functions of an elector does not imply the right to hold office. In many of the States there is no correlation between office-holding and voting, for aliens may be invested with the right of suffrage and denied the right to hold office. In other States correlation exists in a more or less modified degree. In some States the right to vote means the right to hold any office in the gift of the State, to the absolute exclusion of non-voters. Some State Constitutions disqualify from the right of office-holding persons convicted of stated offenses or participants in duels, without interfering with their right to vote. In other States, the Constitutional disqualification for these offenses applies to both voting and office-holding. In some States, women are given the right to hold office, disqualifying them from only such offices as are specially provided for in the Constitution for the exclusive enjoyment of men, while the right to vote is denied them *in toto*. In other States, women are qualified to vote at all elections and to hold any office in the gift of the State. In some States, women are not qualified to vote for any officer or any measure, except such as pertain to the public schools, and they are given the

right to hold such offices only as the Constitution gives them the right to vote upon. In other States, women must be taxpayers to be able to vote, but they cannot vote except on measures affecting taxpayers, and they are denied absolutely the right to hold any office; in other States, they are denied the right to vote for any office or measure submitted to the electors, but are given the right to hold certain offices named, usually offices connected with the management of the public schools.

→ The Constitution of Alabama (1875) grants the right of suffrage to aliens, who have declared their intention to become citizens of the United States; but the offices of Governor (Art. V, Sec. 6), of Secretary of State, State Treasurer, State Auditor and Attorney General (Art. V, Sec. 19), and of Judges of the Supreme and Circuit Courts, Chancellors and Judges of City Courts (Art VI, Sec. 14), are restricted to citizens of the United States. All other offices in the State and membership in either of the two Houses of the State Legislature, are open to all
+ citizens of the State (Art. VI, Sec. 4), and aliens are State citizens (Art. I, Sec. 2). It is specially provided that no religious test shall be required as a qualification to any office (Art. I, Sec. 4); nor shall any educational or property qualification be placed upon the right to hold office (Art. I, Sec. 38); but the holding of office is dependent upon good behavior (Art. I, Sec. 30), and no person convicted of embezzlement of public money, bribery, perjury, or other infamous crime shall be eligible to or capable of holding any office of profit or trust (Art.

IV, Secs. 18, 40, 41). Persons holding offices of profit under the United States (Postmasters receiving a salary of \$200 per year, excepted), are disqualified to hold any office of profit under the State, and holding two offices of profit under the State is prohibited, excepting in the case of Justices of the Peace, Constables, Notaries Public and Commissioners of Deeds (Art. XVI, Sec. 1), and the same rule applies in many other States.

The Constitution of Arkansas (1874) requires every office-holder to be a qualified elector (Art. XIX, Sec. 3), and aliens who have simply declared their intention to become citizens are made electors (Art. III, Sec. 1). But an alien elector is specially debarred from holding the office of Governor (Art. VI, Sec. 5); or of any judicial office (Art. VII, Secs. 6, 16 and 29); or of Prosecuting Attorney of the Circuit Courts (Art. VII, Sec. 24), but not of Justice of the Peace (Art. VII, Sec. 41). And an alien elector is denied the right to sit in either branch of the State Legislature (Art. V, Sec. 1). The organic law of the State prohibits a religious test as a qualification of office-holding (Art. II, Sec. 26), but denies the right to hold an office in the civil department of the State to any person who denies the being of God (Art. XIX, Sec. 1). Participation in a duel (Art. XIX, Sec. 2) and conviction of fraud, bribery, or other wilful and corrupt violation of any election law (Art. III, Sec. 6), embezzlement of public money, bribery, forgery, or other infamous crime (Art. V, Sec. 9), disqualifies the guilty person from holding any office

in the State. Members of either House of the State Legislature are disqualified, during their term of office, from appointment or election to any civil office under the State (Art. V, Sec. 10); and the holding of more than one office in the same department of the State government, except as expressly directed or permitted by the Constitution, is prohibited (Art. XIX, Sec. 6).

In California, the elective franchise is restricted to citizens of the United States, but the Constitution is silent on the qualifications of office-holding, excepting that the Governor and Lieutenant Governor shall have been citizens of the United States and residents of the State five years next preceding their election (Art. V, Secs. 3 and 15) and the judiciary (Supreme and Superior Courts) shall have been admitted to practice at the bar of the Supreme Court (Art. VI, Sec. 23). It prohibits, however, any property qualification being established for office-holding or the right to vote (Art. I, Sec. 24), and it makes ineligible to any civil office of profit, persons holding any lucrative offices under the United States or any other power (Art. III, Sec. 20), and to any office of profit, honor or trust any person convicted of embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein (Art. III, Sec. 21); and it disqualifies from holding any office of profit every person convicted of having given or offered a bribe to procure his election or appointment (Art. XX, Sec. 10), or who may have participated in a duel (Art. XX, Sec. 2). The term of office of any officer

is not to be extended beyond the period for which he has been elected or appointed (Art. XI, Sec. 9). To cover the omission in the Constitution as to the qualifications of office-holding, some cities have incorporated in their charters a clause restricting the right to hold office under the municipality to citizens of the United States.

Colorado has made the qualifications of a voter and an office-holder the same, by providing that no person except a qualified elector (and an alien may be an elector) shall be elected or appointed to any civil or military office in the State (Art. VII, Sec. 6, Const. 1876), except in the case of school district elections and offices, to which women have equal rights with men (Art. VII, Sec. 1, Subd. 2). County offices are governed by the same rule of eligibility (Art. XIV, Sec. 10), and any person convicted of embezzlement of public moneys, bribery, perjury, solicitation of bribery, or subornation of perjury, is ineligible to the General Assembly and disqualified from holding any office of trust or profit in the State (Art. XII, Sec. 4).

Connecticut also confines eligibility to office to electors (Art. VI, Sec. 4, Const. 1818), except as otherwise specially provided in the Constitution; but all electors in that State are Federal citizens.

Delaware prohibits any religious test as a qualification to any office or public trust in the State (Art. I. Sec. 2, Const. of 1831), and no property qualification shall be necessary to the holding of any office, except the office of Senator in the General Assembly, and the office of Assessor, In-

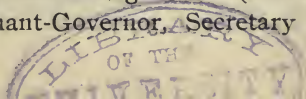
quisitor on land, and levy-court Commissioner, and such officers as the General Assembly may designate by law (Art. VII, Sec. 12). But the Constitution contains no specific definition of what constitutes the qualifications of office-holding in its relationship to Federal citizenship, except in the case of the Governor, who is required to be at least thirty years of age, a citizen and inhabitant of the United States twelve years, and at least six years of that term a resident of the State (Art. III, Sec. 4). No ordained clergymen or ordained preacher of the gospel of any denomination is capable of holding any civil office in the State, or of being a member of either branch of the Legislature so long as he continues to perform his professional functions (Art. VII, Sec. 8).

Every State officer in the service of Florida is required to take an oath of allegiance to the United States and to the State, thus constituting Federal citizenship an essential qualification of office-holding as well as of voting, and subjecting one to the same disabilities and penalties as the other.

The elective franchise is given by the Georgia Constitution of 1877, to male citizens of the United States only (Art. II, Sec. 1, Par. 2), and those disabilities which disqualify an elector from exercising the right to vote disqualify him also from the right to hold office (Art. II, Sec. 2, Par. 1, Sec IV, Paragraphs 1 and 2); but there is an implication in the Bill of Rights (Art. I, Sec. 1, Par. 13) that the framers of the Constitution did not intend that office-holding should be restricted entirely to quali-

fied electors. It declares that "no *inhabitant*" of the State shall be molested in person or property, or prohibited from holding any public office or trust, on account of his religious opinions. However, the same Bill or Rights correlates State and Federal citizenship (Art. I. Sec. 1, Par. 25). The Constitution makes citizenship an essential qualification for State officers and judiciary, with additional residence qualifications; and eligibility to any county office involves the qualifications of an elector and two years residence (Art. XI, Sec. 2). Intelligence, uprightness and the payment of taxes constitute the qualifications of county and petit grand jurors (Sec. 3910, Code of Ga., 1882); and there is nothing in the Constitution or in the Code that disqualifies an alien possessing the virtues named from lawfully serving on a grand or petit jury in Georgia. Under the Constitution of 1868, Federal citizens, born or naturalized, were declared to be citizens of the State of Georgia, and they only; but a male person who legally declared his intention to become a citizen of the United States and had resided in the State six months, was a qualified elector, although not a State citizen and not qualified to hold office. That curious political complication does not, however, exist under the Constitution of 1877.

The right of voting in Idaho is restricted to adult male citizens of the United States; but the Constitution of 1889 does not define office-holding qualifications, except in the case of members of the Legislature (Art. II, Sec. 6), Governor, Lieutenant-Governor, Secretary of



State, State Auditor, Superintendent of Public Instruction, State Treasurer, Attorney-General (Art. IV, Sec. 3), and Judges of the District Courts (Art. V, Sec. 23); but as to all other officers the Constitution is silent. It is provided, however, that no property qualification shall ever be required from any person to vote or hold office, except in school elections or elections creating indebtedness (Art. I, Sec. 28). Justices of the Supreme Court are ineligible to any other office of trust or profit during the term for which elected (Art. V, Sec. 7). The same mental and criminal disabilities attach to office-holding and voting alike, and Chinese—persons of Mongolian descent not born in the United States—and Indians not taxed who have not severed tribal relations and adopted civilized habits are expressly disqualified from exercising the elective franchise and enjoying the right to hold civil office (Art. VI, Sec. 3).

In Illinois, no person can be elected or appointed to any office in the State, civil or military, who is not a Federal citizen and one year a resident of the State (Const. 1870, Art. VII, Sec. 6). Nor is any person convicted of bribery, perjury, or other infamous crime, or who may be a collector or holder of public moneys who shall not have accounted for and paid over, according to law, all such moneys due from him, eligible to the General Assembly or to any office of profit or trust in the State (Art. IV, Sec. 4), and this provision figures in the Constitutions of many other States.

In Indiana, persons of foreign birth and allegiance, who

have declared their intention to become citizens of the United States, have the right of suffrage, but they are ineligible to any office unless they can take an oath or affirmation to support the Constitution of the State and of the United States, and also an oath of office (Art. XV, Sec. 4, Const. of 1851). And no person shall be elected or appointed as a county officer who shall not be an elector of the county, and a resident thereof one year preceding his appointment, if the county shall have been organized that length of time; if not, in that event, he shall have been a resident one year within the limits of the county out of which the new county shall have been taken (Art. VI, Sec. 4). But no person elected to a judicial office shall, during his term, be eligible to any other office of trust or profit in the State, other than a judicial office (Art. VII, Sec. 16). The Governor and Lieutenant-Governor are also ineligible to any other office during the term for which they have been elected (Art. V, Sec. 24), and the Governor is ineligible for more than four years in any period of eight years (Art. V, Sec. 1), while both the Governor and Lieutenant-Governor must each have been five years Federal citizens and residents of the State preceding the time of election, and thirty years of age (Art. V, Sec. 7). The State Secretary, State Auditor and State Treasurer are elected for a term of two years, but they are ineligible to their respective offices more than four years in any period of six years (Art. VI, Sec. 1).

Male Federal citizens only are voters in Iowa, and

every person elected or appointed to office must swear fealty to the United States and the State before entering on his official duties (Art. XI, Sec. 5).

The Constitution of Kansas limits voting to Federal citizens of the United States and office-holding, except in the case of officers specially named (whether by election or appointment), to be prescribed by the State Legislature (Art. XV, Sec. 1).

While the Constitution of Kentucky, 1850, gives the right of suffrage to "every free male citizen," it contains no inherent definition of the word "citizen." The courts have, however, given it the broad and comprehensive interpretation of "citizen of the United States." (See note, page 125.) Eligibility to hold office in the State is confined, in the case of executive and ministerial officers for counties and districts, to persons twenty-four years of age (Clerks of County and Circuit Courts, Sheriffs, Constables and County Attorneys, are eligible at twenty-one), citizens of the United States, residents in the State two years and in the county or district one year (Art. VI, Sec. 2). The Attorney for the Commonwealth or for the county must be a licensed practitioner of two years' standing (*Id.*). But a Sheriff is handicapped with ineligibility for a second term, or to act as a deputy for his immediate successor (Art. VI, Sec. 4). Conviction of offering or giving any bribe or of treating to procure an election, disqualifies the culprit from holding any office (Art. VIII, Sec. 3). Participation in a duel, either as principal or as accessory be-

fore the fact, is an official disqualification. No member of Congress, or person holding or exercising the duties of a Federal office, or under any foreign power, is eligible to any State office (Art. VIII, Sec. 18). Nor is a minister of any religious society eligible to the office of Governor (Art. III, Sec. 6); and no person, while he continues to exercise the functions of a clergyman, priest or teacher of any religious persuasion, society or sect, nor while he holds or exercises any office of profit under the Commonwealth, or under the Federal Government, is eligible to the General Assembly (Art. II, Sec. 27), and any collector of taxes or public moneys for the State, or the assistant or deputy of such collector, is ineligible to the General Assembly unless he has received a "quietus," six months before the election, for his collections and all public moneys for which he may have been responsible (Art. II, Sec. 28). State Senators must be thirty years of age and six years residents of the State. The Governor and Lieutenant-Governor must be thirty-five years of age; but neither is eligible to serve in such capacity two successive terms. A Judge of the Court of Appeals, or of the Circuit Court, must be thirty years of age and a practitioner before the bar eight years, or eight years a practitioner and Judge of a court of record, and two years a resident of the district (Art. IV, Secs. 8 and 22); but a Judge of the County Court may be barely over twenty-one, and a resident of the county only one year preceding his election (Art. IV, Sec. 32).

In Louisiana, the qualifications of an elector consti-

tute office-holding qualifications, except where otherwise specially provided for in the Constitution (Art. 195, Const. 1879), and a person of foreign birth who has declared his intention to become a citizen is an elector (Art. 185), and what disqualifies an elector from voting disqualifies him from office-holding (Art. 187).

Federal citizenship is a prerequisite of voting in the State of Maine and it is a prerequisite also of office-holding. But it does not qualify an elector for every office in the gift of the State. No Federal citizen of foreign birth can, under the Constitution of 1820, be Governor, no matter how his citizenship may have been acquired or how long he may have resided in the State. That office is reserved exclusively for natural-born citizens (Art. V, Part 1st, Sec. 4); and any person holding a Federal office, even though he be a native-born, is barred from the Governorship (*Id.*, Sec. 5). The Governor has an Advisory Board or Council of seven, chosen by the State Legislature; but members of Congress or of the State Legislature and any person holding office under the United States (Postmasters excepted), or any civil office under the State (Justices of the Peace and Notaries excepted), are ineligible to the office of Councillor (Art. V, Secs. 1 and 4).

Maryland, in the Constitution of 1867, specially prohibits judges from having any other office or employment under the State or the United States and from receiving fees (Art. 33). Rotation in office in the Executive Department is declared one of the best securities of

permanent freedom (Art, 34). Holding more than one office by any one person (Art. 35) and religious test as a qualification to vote or hold office, is prohibited (Art. 35). Only citizens of the United States, otherwise qualified, are eligible to hold office. For Governor, a residence qualification of ten years is required and the age limit is placed at thirty (Art. II, Sec. 5). Members of the State Legislature must have resided in the State of Maryland for three years preceding their election. A member of Congress (Art. III, Sec. 9), the holder of a Federal office or appointment, civil or military (Sec. 10), ministers and preachers of any creed or denomination, and holders of State offices, except Justices of the Peace (Sec. 11), are ineligible to membership in the Legislature, and no collector, receiver, or holder of public money, is eligible to the Legislature or to any office in the State, until he shall have made a perfect accounting (Sec. 12). The resignation of a Senator or Delegate does not make him eligible, during the term for which he has been elected, to hold any office created or enriched during his term (Sec. 17). Participation in a duel disqualifies an elector from the right of holding office unless the Legislature removes the disability (Sec. 41).

Under the Constitution of 1780, Massachusetts gave the right to vote and hold office to any male *inhabitant*, and an "inhabitant" was defined as meaning "every person" for the purpose of electing or being elected to office who dwelt or had his home in a town, district or plantation. But Article III of the amendments to the

Constitution adopted in 1820, conferred the right of suffrage on "every male citizen of twenty-one years of age and upward who shall have resided within the Commonwealth one year;" but it made no changes in the eligibility of inhabitants to office beyond providing in Art. VI that "instead of the oath of allegiance prescribed by the Constitution, every person thereafter elected to office should merely take an oath to bear true faith and allegiance to the Commonwealth of Massachusetts," and support its Constitution, Quakers being by name permitted to affirm (Art. VI). The oath which this amendment displaced required the person accepting any office "to renounce and abjure allegiance, subjection, and obedience to the King, Queen or Government of Great Britain (as the case may be), and every other power whatsoever; and that no foreign prince, person, prelate, State or potentate hath, or ought to have, any jurisdiction, superiority, preeminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this Commonwealth; except the authority and power which is or may be vested by their constituents in the Congress of the United States; and I do further testify and declare that no man, or body of men, hath or can have, any right to absolve or discharge me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgement, profession, testimony, declaration, denial, renunciation, and abjuration heartily and truly, according to the common meaning and acceptation of the foregoing words, without any

equivocation, mental evasion or secret reservation whatsoever" (Chapter VI, Art. 1). In 1857 an educational qualification as a pre-requisite for office-holding and voting, was engrafted on the Constitution, and in 1859 eligibility to hold office or to vote was denied to Federal citizens of foreign birth for two years after naturalization. The latter was, however, annulled in 1863 by Constitutional amendment.

Aliens and persons ineligible to Federal citizenship by the ordinary process of naturalization—namely, "civilized male inhabitants of Indian descent"—are qualified under the Constitutional amendment adopted by the people of Michigan in 1870, to vote at any election, and the only test required as a qualification for any office or public trust, except where other qualifications are specially stated, is an ability to subscribe to an oath or affirmation to support the Constitution of the United States and the Constitution of the State, and a pledge to perform the duties of office faithfully (Art. XVIII, Sec. 1). Two years residence, five years Federal citizenship and being thirty years of age constitute eligibility to the Governorship, or the office of Lieutenant Governor, but neither officer is eligible to any office or appointment from the Legislature, or either house thereof, during the time for which he is elected, and all votes cast for either is void (Art. V, Sec. 16).

Eligibility to vote constitutes eligibility to any office in Minnesota (Art. VII, Sec. 7, Const. 1857), and aliens who have declared their intention to become citizens of

the United States, persons of mixed white and Indian blood who have adopted the customs and habits of civilization, and civilized Indian residents, who, after examination by a District Court, shall be pronounced capable of enjoying the rights of citizenship within the State, are eligible to vote (Art. VII, Sec. 1, Const. Amendt. 1868). In 1875 the Constitution was amended so as to permit women to vote at any election relating to schools or school officers, and to hold any office pertaining only to the management of schools.

Under the Constitution of 1868, Mississippi prohibited the election or appointment to office of any person for life or during good behavior (Art. I, Sec. 29), and a property qualification for eligibility to office was proscribed forever (Art. I, Sec. 17). And a qualified elector only was eligible to any office of trust or profit, or to any office in the State Militia (Art. VIII, Sec. 4); and adult male citizens of the United States only were recognized as citizens of the State (Art. I, Sec. 1) and given the right of suffrage (Art. VII, Sec. 8). The disqualifications which applied, therefore, to an elector, applied also to an office-holder. On the 1st of November, 1890, the State of Mississippi adopted a new Constitution which divides the State Government into three distinct departments—legislative, judicial and executive—and declares as a fundamental proposition that an acceptance of an office in either of these departments shall, of itself, and at once, vacate any and all offices held by the person so accepting office in either of the other departments (Art. I,

Sec. 2). The Bill of Rights declares that Federal citizenship and residence combined constitute State citizenship (Art. III, Sec. 8). Adult male Federal citizenship is the standard of the elective franchise (Art. XII, Sec. 241), and all qualified electors and no others shall be eligible to office, except as otherwise provided in the Constitution (Art. XIII, Sec. 250). But the prohibition against a property or educational qualification in an elector, and the prohibition of a property qualification for eligibility to office, which figured in the Bill of Rights of the Constitution of 1868, have been abandoned in the Constitution of 1890. It is, therefore, in the power of the Legislature to fix an educational and a property standard as a qualification of eligibility to office or to vote. In fact, the Constitution itself provides that every elector shall be able to read any section of it; or be able to understand it when it is read to him, or give a reasonable interpretation thereof (Art. XII, Sec. 244). Denial of the existence of a Supreme Being, conviction of bribery, perjury, or any infamous crime, or giving, or offering, directly or indirectly, any bribe to procure his election or appointment, or of the giving or offering of any bribe to procure the election or appointment of any person to office, is a disqualification for the holding of any office of profit or trust in the State. The Governor and Lieutenant-Governor must be at least thirty years of age, twenty years citizens of the United States and five years residents of the State. One must be a resident freeholder to be a Supervisor (Art. VI, Sec. 176), and a

regular practitioner five years to be a Judge (Art. VI, Secs. 150, 154). Personal devotion to the duties of the office is a necessary condition for its retention (Art. XIV, Sec. 267). The Governor is ineligible to be his immediate successor in office (Art. V, Sec. 116). For reasonable cause, but which may be insufficient ground for impeachment, the Governor, with the concurrence of two-thirds of each branch of the Legislature, may remove from office the Judges of the Supreme and inferior Courts (Art. IV, Sec. 53).

Absolute freedom in religious matters is guaranteed by the Constitution of Missouri, and no religious belief can interfere with any person's qualifications as an elector or his eligibility to office (Art. II, Sec. 5), but any collector or receiver of public moneys must render a satisfactory account of all his obligations before he is eligible to any office in the State (Art. II, Sec. 19). The right of suffrage is given to every male person of foreign birth who may have declared his intention to become a citizen no less than one year and no more than five years before he offers to vote (Art. VIII, Sec. 2), but no person can be elected or appointed to any office in the State, civil or military, who is not a citizen of the United States, and who has not been a resident of the State one year preceding his election or appointment (Art. VIII, Sec. 12). Participants in a duel, as principal or as second, or as a messenger, in or out of the State, is a bar to office-holding; so is holding any office of profit under the United States; and in this State Postmasters are not excepted

from the ban of ineligibility as they are in some of the States.

The practice of polygamy is a bar to voting and office-holding in Montana. Aside from that, which is aimed directly at the Mormons, the Constitution (1889) protects everyone in the free exercise and enjoyment of religious profession and worship. The right to vote and hold office is governed by the same qualifications—Federal citizenship—and denied by the same disabilities (Art. IX, Sec. 11), except that women, who are not electors, have the right to hold the office of County Superintendent of Schools or any school district office, and the right to vote at any school district election (Art. IX, Sec. 10):

The Constitution of 1866-67 of Nebraska specially qualified aliens who had declared their intention to become citizens of the United States conformable to the laws of naturalization, to hold a seat in the Legislature (Art. II, Sec. 6), for such aliens were made electors and all electors under the section referred to were made eligible to a seat. Under the Constitution of 1875, such aliens are still electors (Art. VII, Sec. 1, Subd. 2), but they are not apparently eligible to all offices, for it is specifically stated that "no person shall be eligible to the office of Governor or Lieutenant-Governor who shall not have attained the age of thirty years, and been for two years next preceding his election a citizen of the United States and of this State (Art. V, Sec. 2). An alien elector is, however, eligible to a seat in the Legislature (Art. III, Sec. 5) provided he does not hold any lucrative office un-

der the State or any office under the authority of the United States (Art. III, Sec. 6). The Supreme Court of the United States has passed upon a case of great interest and importance affecting eligibility to office and the right of suffrage, growing out of a controversy over the Governorship of this State (See page 113).

The right to vote gives the right to hold office in the State of Nevada (Art. XV, Sec. 3) unless the voter is a Federal office-holder, in which event he is debarred from holding office under the State. But Postmasters receiving compensation not exceeding \$500 per annum are not deemed as holding a lucrative office, and may hold an office in the service of the State without prejudice to the Postmastership (Art. IV. Sec. 9).

The Constitution of New Hampshire (1862) declares that "no office or place whatsoever in the Government shall be hereditary—the abilities and integrity requisite in all not being transmitted to posterity or relations" (Part I, Art. 9). "Every male inhabitant" of twenty-one years of age and upward paying taxes, is an elector" (Part II, Sec. 28), and "every person, qualified as the Constitution provides, shall be considered an inhabitant for the purpose of electing or being elected into any office or place within the State, in the town, parish, and plantation where he dwelleth and hath his home" (Part II, Sec. 30). The qualifications referred to apply to the office of State Senator who must be a freeholder to the value of £200 (Part. II, Sec. 29), and the office of Governor, Councillor, members of the Judiciary, etc., to

which age and residence limitations are attached. No person, for instance, is eligible to hold the office of Judge of any Court, or Judge of Probate, or Sheriff of any county, after he has attained the age of seventy years (Part. II, Sec. 78).

It has already been noted that New Jersey at one time made no distinction between the sexes in the right to vote, so long as the person claiming the right had the necessary property qualification of "fifty pounds proclamation money." But that privilege is now reserved exclusively to adult male citizens of the United States, and in the absence of anything to the contrary no one but an elector is qualified to hold office.

Qualifications to hold office are not stated in the Constitution of New York, but disqualifications are stated. For instance: no person is eligible to a seat in the Legislature, who, at any time within one hundred days of the time of his election may have been a member of Congress, or held a civil or military office under the Federal Government, or who may have been an officer under any city government (Art. II, Sec. 8, Const. Amendment, 1874), and a member of the State Legislature is ineligible to civil appointment within the State or to the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government during the time for which he has been elected (Art. II, Sec. 7, Const. Amendment, 1874).

Every elector is eligible to office in North Carolina

(Art. VI, Sec. 4, Const. of 1876) and only Federal citizens are electors.

North Dakota makes aliens who have declared their intention to become citizens of the United States one year, and not more than six years, prior to an election, electors (Art. V, Sec. 121, Sub. 2, Const. 1891), and it qualifies an elector who shall have attained the age of twenty-five years, and been a resident of the State or Territory two years next preceding an election, to the office of State Senator, and gives an elector twenty-one years of age who has the same residence qualification the right to sit in the Lower House of the State Legislature. But to be Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Commissioner of Insurance, Commissioner of Railroads, Attorney-General, Commissioner of Agriculture and Labor, Supreme Justice or Judge of a District Court, an elector must also be a Federal citizen. The laws of the State may thus be made by aliens, but the administration of them rests exclusively with citizens of the United States.

Section 4 of Article XV of the Constitution of Ohio (1851) provides that "no person shall be elected or appointed to office in this State, unless he possesses the qualifications of an elector," and the elective franchise is restricted to adult Federal citizens.

Persons of foreign birth who have declared their intention to become citizens of the United States enjoy the right of suffrage in Oregon under the Constitution of

1857, but no one is eligible to any county office who cannot take an oath to support the Constitution of the United States and of the State, and the qualification of administrative officers of the State is that of Federal citizenship.

Pennsylvania requires an elector to be a Federal citizen, and no one but a Federal citizen can take the oath of office prescribed by the Constitution (Art. VII, Sec. 1) ; nor can any person be appointed to any office in any county who shall not have been a citizen and an inhabitant therein one year next before his appointment, "if the county shall have been so long erected ; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken" (Art XIV, Sec. 3). Women twenty-one years of age and upward are eligible to any office of control or management under the school laws of the State, but they are not eligible to vote (Art. X, Sec. 3). The Governor and all civil officers may be removed and disqualified from holding office for misdemeanor in office by impeachment proceedings before the Senate, and such impeached officers, whether convicted or acquitted, may be proceeded against also in the ordinary way by indictment and trial according to law (Art. VI, Sec. 3). All officers hold their offices conditional on their good behavior, and they are subject to removal for any official misbehavior or the commission of any infamous crime. The power which appoints has the authority to remove, except in the case of judges of the courts of record and

the Superintendent of Public Instruction; and all officers elected by the people, "Governor, Lieutenant-Governor, members of the General Assembly and judges of the courts of record learned in the law" excepted, are removable "by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate" (Art. VI, Sec. 4). The power of impeachment rests with the House of Representatives, but trial must be had before the Senate, and it takes two-thirds of the members present to convict.

In Rhode Island, Federal citizens possessed of stated property qualifications are electors, and no person is eligible to any civil office (except the office of School Committee) unless a qualified elector for such office (Art. IX, Sec. 2, Const. of 1842).

South Carolina, in the Constitution of 1868, prohibits the creation of a property qualification for an election to or the holding of any office, and no office shall be created, the appointment of which shall be for a longer term than good behavior (Art. I, Sec. 32), a concession which the Constitution of some States will not allow. Any person who denies the existence of a Supreme Being is ineligible to the office of Governor (Art. III, Sec. 3), or to any office (Art. XIV, Sec. 6). Federal citizens who have the necessary residence qualifications are given solely the right to vote, and they only are eligible to any office in the gift of the State (Art. XIV, Sec. 1).

South Dakota restricts office-holding to male Federal citizens, who only are also electors, excepting school

offices, which are thrown open to women, and women are given the right to vote at school elections (Art. VII, Sec. 9; Art. IX, Sec. 7, Const. 1889).

Tennessee, under the Constitution of 1870, prohibits a religious test for either voting or holding office, and Federal citizens only are electors and qualified to hold office. But "no minister of the gospel, or priest of any denomination whatever, is eligible to a seat in either House of the Legislature;" and any person who "denies the being of God, or a future state of rewards and punishments," is prohibited from holding any office in the civil departments of the State; while participants to a duel are deprived of the right to vote and to hold office (Art. IX). Any county office created by the Legislature must be filled either by the people or by the County Court (Art. XI, Sec. 17). Any person who, to secure election, gives, promises, or bestows upon an elector as a reward for his vote either "meat, drink, money, or otherwise," is incapacitated from serving in the office for which he has been elected, for a period of six years (Art. X, Sec. 3).

Texas, in the Constitution of 1876, prohibits any religious test as a qualification to any office or to vote, and it does not permit the exclusion of any one from office on account of his religious sentiments, provided he acknowledges the existence of a Supreme Being (Art. I, Sec. 4). Persons of foreign birth and allegiance who have declared their intention to become citizens of the United States, are admitted to the rights of electors, and there is nothing in the oath of office prescribed by the Constitution to

prevent any alien from qualifying as an office-holder without violation to his conscience or treachery to his allegiance. But it is stipulated in the case of the administrative and judicial offices of the State that only Federal citizens are qualified.

The Constitution which Vermont adopted in 1793 on its admission to the Union of States under the act of Congress of 1791, has been in force ever since. Amendments have, however, been adopted by the people on several occasions. Art. VIII of Chapter I defines the status of eligibility to vote and to hold office, as follows: "All freemen, having a sufficient evidence, common interest with, and attachment to the community." Up to 1828, aliens who were able to comply with these conditions enjoyed both the right of electing and the right of being elected to office; but in the year named an amendment to the Constitution was adopted defining the status of a freeman thus: "No person, who is not already a freeman of this State, shall be entitled to exercise the privilege of a freeman, unless he be a natural-born citizen of this or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress." Federal citizenship is, consequently, the standard of eligibility to vote and to hold office in Vermont, at present.

Federal citizenship constitutes the basis of the right to the elective franchise in Virginia under the Constitution of 1870, and the amendment adopted in 1876; and the same Constitution declares that "all persons entitled to

vote shall be eligible to any office in the gift of the people, except as restricted in this Constitution." Another Constitutional provision restricts the right to sit as jurors to those who are eligible to vote and hold office.

Eligibility to hold office and to vote is the same in the new State of Washington, and no person, except a citizen of the United States and a qualified elector of the State is eligible to hold any State office ; but such aliens as declared their intention to become citizens of the United States under the Territorial law were, under the ruling of the Supreme Court of the United States in the Nebraska case of *Thayer vs. Boyd*, admitted to Federal citizenship under the Enabling and Admission acts of Congress. The Legislature is authorized by the Constitution of 1889 to provide that there shall be no denial of the elective franchise at any school election on account of sex, and an act was passed in March, 1890, putting this provision into operation (see page 103). The Treasurer is the only State officer who is, under this Constitution, ineligible to be his own direct successor (Art. III, Sec. 25), and no county officer is eligible to hold his office more than two terms in succession (Art. XI, Sec. 7).

The Constitution of West Virginia of 1872 makes Federal citizens only citizens of the State, and male citizens of the State, not minors, or of unsound mind, or paupers, or under conviction of treason, felony, or bribery in an election, electors, provided that they have the necessary residence qualifications ; and only such as are enabled to vote are eligible to election or appointment to office,

whether it be State, county or municipal (Art. IV. Secs. 1 and 4).

Wisconsin, under the Constitution of 1848, makes it compulsory for the Governor and Lieutenant-Governor to be citizens of the United States (Art. V, Sec. 2), so also the State and county Judiciary ; but being a qualified elector of the district which he may be chosen to represent qualifies a person for a seat in the State Legislature, if he has resided one year in the State (Art. IV, Sec. 6); and among those who are qualified electors are persons of foreign birth who have merely declared their intention to become citizens of the United States conformably to the laws of the United States on the subject of naturalization, and civilized persons of Indian descent not members of any tribe, but who are really ineligible to Federal citizenship by any of the ordinary methods of acquiring it. (Art. III, Sec. 1). Sheriffs are made ineligible to the same office "for two years next succeeding the termination of their office" (Art. VI, Sec. 4). Dueling, or participation therein as accessory, forever disqualifies the person thus engaged as an elector and from holding any office under the Constitution and laws of the State (Art. XIII, Sec. 2). Members of Congress, persons holding office under the Federal Government (Postmasters excepted), persons convicted of infamous crime, defaulters to the United States, or to the State of Wisconsin, or to any county or town in it, or to any State or Territory in the United States are ineligible to

any office (Art. XIII, Sec. 3). A religious test or a qualification for office is prohibited (Art. I, Sec. 19).

Wyoming gives women the right of suffrage, and its Constitution declares that the right to hold office, as well as the right to vote, shall not be denied or abridged on account of sex, both male and female citizens being guaranteed equally the enjoyment of all civil, political and religious rights and privileges (Art. VI, Sec. 1, Const. 1889); but in defining the qualifications and duties of the executive, judicial, legislative and other officers, the incumbent thereof is, in every instance, referred to as of the male sex. When New Jersey granted woman the right of suffrage, all legislation relating to the elective franchise recognized with great particularity, in every reference to person, the equality of the sexes*. This has been deemed unnecessary in Wyoming, woman being understood wherever man is named in the Constitution. Federal citizenship is the standard of office-holding and electorship (Art. VI, Sec. 5), and whatever debars any person from the enjoyment of one deprives him also of the right of the other. Wyoming is the only State in the Union where woman is, politically, the co-equal of man. But for the first five years of the State's existence, aliens may vote (Art. VI, Sec. 10), and possibly hold office.

It will be observed from the foregoing that at least thirteen States give those owing foreign allegiance the right to hold office. The right to vote and to hold office

**American Citizens' Manual*, p. 89.

is conceded in all the Territories under the Federal statutes, to aliens who have declared their intention to become citizens of the United States (See page 140); but they are required, under oath, to support the Constitution of the United States. The Federal Constitution prohibits any religious test as a qualification for holding any office under the Federal Government †, but it requires an oath of fealty to the Government. Allegiance by birth or naturalization constitute Federal citizenship; but the Constitution fails to define the qualifications for office-holding under the Federal Government. Persons of foreign birth, owing allegiance only to a foreign power, have, however, held Federal office, and their right to do so has not been challenged.

† Federal Constitution, Art. VI, Sec. 3.

THE FEDERAL CONSTITUTION.*

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution of the United States of America.

ARTICLE I.

SECTION I—LEGISLATIVE POWERS.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION I—HOUSE OF REPRESENTATIVES.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

QUALIFICATIONS OF MEMBERS.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

APPORTIONMENT OF REPRESENTATIVES.

3. [Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.] (1) The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts, eight; Rhode Island and Providence Plantations, one; Connecticut, five

* This Constitution went into operation March 4, 1789.

(1) Amended by XIVth Amendment, 2d Sec.

New York, six ; New Jersey, four ; Pennsylvania, eight ; Delaware, one ; Maryland, six ; Virginia, ten ; North Carolina, five ; South Carolina, five, and Georgia, three.

FILLING VACANCIES.

4. When vacancies happen in the representation of any State, the executive authority thereof shall issue writs of election to fill such vacancies.

EXCLUSIVE POWER OF IMPEACHMENT.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

SECTION III—COMPOSITION OF THE SENATE.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years, and each Senator shall have one vote.

ROTATION OF SENATORS.

2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year ; of the second class, at the expiration of the fourth year ; and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year. And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

QUALIFICATIONS OF SENATORS.

3. No person shall be a Senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State for which he shall be chosen.

PRESIDENT OF THE SENATE.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

OFFICERS OF THE SENATE.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

IMPEACHMENT TRIALS.

6. The Senate shall have the sole power to try all impeachments. When the President of the United States is tried, the Chief Justice shall preside ; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment, shall not be extended further

than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

SECTION IV—ELECTION OF MEMBERS OF CONGRESS.

1. The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State, by the Legislature thereof; but the Congress, may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators.

CONGRESSIONAL SESSIONS.

2. Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V—POWERS, RULES AND DUTIES OF EACH HOUSE.

1. Each House shall be judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

2. Each House may determine the rule of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of each House, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION VI—COMPENSATION AND PRIVILEGES.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

APPOINTMENT TO OFFICE.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United

States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding office under the United States, shall be a member of either House during his continuance in office.

SECTION VII.—REVENUE BILLS.

1. All bills for raising revenue shall originate in the House or Representatives; but the Senate may propose or concur with amendments, as on other bills.

PASSING BILLS, ETC.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

ORDERS AND RESOLUTIONS.

3. Every order, resolution or vote, to which the concurrence of the Senate and House of Representatives may be necessary (except on the question of adjournment), shall be presented to the President of the United States, and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be re-passed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION VIII.—POWERS OF CONGRESS.

The Congress shall have power:

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;
2. To borrow money on the credit of the United States;
3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States (1);
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;
6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
7. To establish post-offices and post-roads;
8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
9. To constitute tribunals inferior to the Supreme Court;
10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;
11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;
12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years;
13. To provide and maintain a navy;
14. To make rules for the government and regulation of the land and naval forces;
15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;
16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;
17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square), as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and any other needful buildings; and—
18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

SECTION IX—LIMITATIONS OF THE POWERS OF CONGRESS.

1. The migration or importation of such persons as any of the States now

(1). 4 Wharton 122, 209; 6 Id. 131; 12 Id. 213; 6 Peters 348, 761; 9 Id. 329; 14 Id. 67; 5 Howland, 295; 19 Id. 393.

existing shall think proper to admit, shall not be prohibited by Congress, prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign State.

SECTION X—LIMITATIONS OF THE POWER OF INDIVIDUAL STATES.

1. No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of the Congress, lay any duty on tonnage, keep troops or ships of war in times of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

THE EXECUTIVE.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years,

and together with the Vice President, chosen for the same term, be elected as follows :

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors^e equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States shall be appointed an elector.

3. [The electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot, one of them for President; and if no person have a majority, then from the five highest on the list, the said House shall in a like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors, shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President] (1).

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President: neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the United States (2).

6. In case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may, by law,

(1). The XIth amendment has superseded this paragraph.

(2). The XIIth amendment defines eligibility to the office of Vice-President, which the framers of the Constitution omitted.

provide for the case of removal, death, resignation or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected (1).

7. The President shall at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States or any of them.

8. Before he enters on the execution of his office, he shall take the following oath or affirmation.

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECTION II—POWERS OF THE PRESIDENT.

1. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the consent and advice of the Senate, shall appoint Ambassadors, other Public Ministers and Consuls, Judges of the Supreme Court and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

SECTION III—DUTIES OF THE PRESIDENT.

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such

(1). The successor to the Presidency in either of the contingencies contemplated in this paragraph was amply provided for by Congress in 1866. (See page 35).

time as he shall think proper ; he shall receive Ambassadors and other Public Ministers ; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECTION IV—REMOVAL FROM OFFICE.

The President, Vice-President and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery and other high crimes and misdemeanors.

ARTICLE III.

SECTION I—THE JUDICIAL POWER.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION II—JURISDICTION OF THE JUDICIAL POWER.

1. *The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority ; to all cases affecting Ambassadors, or other Public Ministers and Consuls ; to all cases of admiralty and maritime jurisdiction ; to controversies to which the United States shall be a party ; to controversies between two or more States ; between a State and citizens of another State ; between citizens of different States ; between citizens of the same State claiming lands under grants of different States ; and between a State, or the citizens thereof, and foreign States, citizens or subjects.

2. In all cases affecting Ambassadors, other Public Ministers and Consuls, and those in a which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crime shall have been committed ; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION III—TREASON AND ITS PUNISHMENT.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

*See XIth amendment.

No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV. .

SECTION I—STATE RECORDS.

Full faith and credit shall be given, in each State, to the public acts, records and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved and the effect thereof.

SECTION II—PRIVILEGES OF CITIZENS.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. (1).

2. A person charged in any State with treason, felony or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to labor or service in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due.

SECTION III—ADMISSION OF NEW STATES.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

DISPOSITION OF TERRITORIES.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States; and nothing in this Constitution shall be construed as to prejudice any claims of the United States, or of any particular State.

SECTION IV—GUARANTY AND PROTECTION OF THE STATES BY THE UNION.

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion;

(1) 5 Cranch 61, 761; 12 Peters 657; 13 Id. 519; 14 Howland 13; 18 Id. 591; 19 Id. 393; 6 Wallace 35; 8 Id. 123, 168; 10 Id. 173, 566; 12 Id. 418; 16 Id. 36, 130; 93 U. S. 72; 94 Id. 391; 114 Id. 622.

and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

ARTICLE V.

AMENDMENTS TO THE CONSTITUTION.

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid, to all intents and purposes as a part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; *provided*, that no amendment which may be made prior to the year eighteen hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

SECTION I—VALIDITY OF FORMER DEBTS.

All debts contracted, and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

SECTION II—SUPREME LAW OF THE LAND.

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

SECTION III—EXEMPTION FROM ANY RELIGIOUS TEST.

The Senators and Representatives before mentioned, and members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States (1).

ARTICLE VII.

WHEN THE CONSTITUTION TO TAKE EFFECT.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in the convention, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand

seven hundred and eighty-seven, and of the independence of the United States of America the twelfth.

In witness whereof, we have hereunto subscribed our names.

GEO. WASHINGTON,
President and Deputy from Virginia.

New Hampshire :

JOHN LANGDON.

NICHOLAS GILMAN.

Massachusetts :

NATHANIEL GORMAN.

RUFUS KING.

Connecticut :

WM. SAMUEL JOHNSON

ROGER SHERMAN.

New York :

ALEXANDER HAMILTON.

New Jersey :

WILLIAM LIVINGSTON.

DAVID BREARLE.

WILLIAM PATTERSON.

JONATHAN DAYTON.

Pennsylvania :

BENJAMIN FRANKLIN.

THOMAS MIFFLIN.

ROBERT MORRIS.

GEORGE CLYMER.

THOMAS FITZSIMONS.

JARED INGERSOLL.

JAMES WILSON.

GOUV. MORRIS.

Delaware :

GEORGE REED.

GUNNING BEDFORD, Jun.

JOHN DICKINSON.

RICHARD BASSETT.

JACOB BROOM.

Maryland :

DANIEL CARROLL.

JAMES McHEERY.

DAN'L OF ST. THOS. JENIFER.

Virginia :

JOHN BLAIR.

JAMES MADISON, Jun.

North Carolina :

WILLIAM BLUNT.

RICH'D DOBBS SPAIGHT.

HUGH WILLIAMSON.

South Carolina :

JOHN RUTLEDGE.

C. COATESWORTH PINCKNEY.

CHARLES PINCKNEY.

PIERCE BUTLER.

Georgia :

WILLIAM FEW.

ABRAHAM BALDWIN.

Attest : WILLIAM JOHNSON, *Secretary.*

AMENDMENTS

—TO THE—

FEDERAL CONSTITUTION.

*ARTICLE I.

RIGHT OF CONSCIENCE, FREEDOM OF THE PRESS, ETC.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

*ARTICLE II.

THE MILITIA.

A well regulated militia being necessary for the security of a free State, the right of the people to keep and bear arms shall not be infringed.

*ARTICLE III.

QUARTERING SOLDIERS.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

*ARTICLE IV.

UNREASONABLE SEARCHES AND SEIZURES.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized,

*ARTICLE V.

CRIMES AND INDICTMENTS.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be compelled in

* Articles I to X, inclusive, were proposed by Congress September 25, 1789, and ratified by the requisite three-fourths of the State Legislatures December 15, 1791.

any criminal case to be a witness against himself; nor to be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

*ARTICLE VI.

CRIMINAL PROSECUTIONS.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

*ARTICLE VII.

TRIAL BY JURY IN CIVIL CASES.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

*ARTICLE VIII.

BAILS, FINES AND PUNISHMENTS.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

*ARTICLE IX.

RESERVED RIGHTS.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

*ARTICLE X.

STATE RIGHTS.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

*ARTICLE XI.

THE JUDICIAL POWER.

The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State (1).

* See note at foot of previous page.

(1) Proposed by Congress March 5, 1794; ratified Jan. 8, 1798.

(1) Amending Article III, Sec. 2, Fed. Const.

ARTICLE XII.

HOW THE PRESIDENT AND VICE PRESIDENT ARE ELECTED.

The electors shall meet in their respective States § and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name, in their ballots, the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed * to the seat of the government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, † open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President; but in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice; and if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other Constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President, shall be eligible to that of Vice-President of the United States (1).

† Proposed December 12, 1803; ratified Sept. 25, 1804.

§ On the first Wednesday in December, by act of Congress, March 1, 1792.

* Before the first Wednesday in January, by act of Congress, March, 1792.

† On the second Wednesday in February, by the same act.

(1) Under this provision of the Federal Constitution, it is impossible now for any citizen not "natural born" to become Vice-President of the United States, for all those persons of alien birth who were eligible to the Presidency by virtue of their citizenship at the time of the adoption of the Constitution and fourteen years' residence in the country, have long since passed away. The Succession Act of 1886 provides that the line of succession to the Presidency shall pass through certain Cabinet officers therein named, but it expressly disqualifies any one of these officers from the right of succession if of foreign birth.

*ARTICLE XIII.

SECTION I—SLAVERY ABOLISHED.

Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION II.

Congress shall have power to enforce this article by appropriate legislation (1).

†ARTICLE XIV.

SECTION I—CITIZENSHIP AND ITS RIGHTS.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (2).

SECTION II—REPRESENTATION.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in, rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION III—DISABILITY OF PERSONS ENGAGED IN THE REBELLION.

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State to sup-

*Proposed February 1, 1865; declared ratified December 18, 1865.

†Proposed by Congress June 16, 1866; declared ratified July 28, 1868.

(1) U. S. Stats. at Large, vol. 13, p. 775.

(2) 100 U. S. 303, 313, 339; 101 U. S. 22; 109 U. S. 3, 285; 110 U. S. 516; 111 U. S. 701; 112 U. S. 94; 113 U. S. 9, 27, 506, 703; 114 U. S. 606.

port the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may, by a vote of two-thirds of each House, remove such disability.

SECTION IV—PAYMENT OF PUBLIC DEBT.

The validity of the public debt of the United States authorized by law, including debts incurred, or the payment of pensions and bounties for service in suppressing insurrection or rebellion, shall not be questioned, but neither the United States nor any State shall assume to pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or claim for the loss or emancipation of any slave, but all such debts, obligations and claims shall be held illegal and void.

SECTION V.

The Congress shall have power to enforce by appropriate legislation, the provisions of this article (1).

*ARTICLE XV.

SECTION I—THE RIGHT OF SUFFRAGE NOT TO BE IMPAIRED.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State, on account of race, color or previous condition of servitude.

SECTION II.

The Congress shall have power to enforce this article by appropriate legislation (2).

(1) U. S. Stats. at Large, vol. 15, pps. 709, 711.

*Proposed by Congress Feby. 27, 1869, and declared ratified March 30, 1870.

(2) U. S. Stats. at Large, vol. 15, p. 346.

ART. XVI.

Income Tax Law.

ART. XVII

Popular election of Senators

ART. XVIII.

Prohibition of liquor

ART. XIX.

Woman's suffrage

ART. XX.

Repeal of Volstead Act (Prohibition)

ART. XXI

APPENDIX.

IDAHO.

Constitutional (1) provisions governing the electoral franchise.

*ARTICLE I.

SECTION 20. No property qualifications shall ever be required for any person to vote or hold office except in school elections or elections creating indebtedness.

ARTICLE VI.

SECTION 2. Except as in this article otherwise provided, every male citizen of the United States, twenty-one years old, who has actually resided in this State or Territory for six months, and in the county where he offers to vote, thirty days next preceding the day of election, if registered as provided by law, is a qualified elector; and until otherwise provided by the Legislature, women having the qualifications prescribed in this article, may continue to hold such school offices and vote at such elections as provided by the laws of Idaho Territory (2).

SEC. 3. No person is permitted to vote, serve as a juror, or hold any civil office who is under guardianship, idiotic or insane; or who has, at any place, been convicted of treason, felony, embezzlement of the public funds, bartering or selling, or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the rights of citizenship, or who, at the time of such election, is confined in prison on conviction of a criminal offense, or who is a bigamist or polygamist, or is living in what is known as patriarchal, plural or celestial marriage or in violation of any law of this State, or of the United States, forbidding any such crime; or who, in any manner, teaches, advises, counsels, aids or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corpora-

* Const. of Idaho, 1889.

(1) See page 89 for statutory provisions.

(2) See Legislative act, page 89.

tion or society, which teaches, advises, counsels, encourages or aids any person to enter into bigamy, polygamy or such patriarchal, or plural marriage, or which teaches or advises that the laws of this State prescribing rules of civil conduct, are not the supreme law of the State; nor shall Chinese or persons of Mongolian descent, not born in the United States, nor Indians not taxed, who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors, or hold any civil office.

SEC. 4. The Legislature may prescribe qualifications, limitations, and conditions for the right of suffrage additional to those prescribed in this article, but shall never annul any of the provisions in this article contained.

SEC. 5. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of this State, or of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, nor while a student of any institution of learning, nor while kept at any almshouse or other asylum at the public expense.

MISSISSIPPI.

Constitutional provisions governing the elective franchise.

Tax limitations and educational and mental qualifications.

*ARTICLE XII.

SECTION 241. Every male inhabitant of this State, except idiots, insane persons and Indians not taxed, who is a citizen of the United States, twenty-one years old and upwards, who has resided in this State two years, and one year in the election district, or in the incorporated city or town, in which he offers to vote, and who is duly registered as provided in this article, and who has never been convicted of bribery, burglary, theft, arson, obtaining money or goods under false pretenses, perjury, embezzlement or bigamy, and who has paid on or before the first day of February of the year in which he shall offer to vote, all taxes which may have been legally required of him, and which he has had an opportunity of paying according to law, for the preceding two years, and who shall produce to the officers holding the election satisfactory evidence that he has paid said taxes, is declared to be a qualified elector; but any minister of the gospel in charge of an organized church shall

*Const. of Mississippi, 1890.

be entitled to vote after six months residence in the election district, if otherwise qualified. (1)

SEC. 242. The Legislature shall provide by law for the registration of all persons entitled to vote at any election, and all persons offering to register shall take the following oath or affirmation: "I, _____, do solemnly swear (or affirm) that I am twenty-one years old (or I will be before the next election in this county), and that I will have resided in this State two years, and _____ election district of _____ county one year next preceding the ensuing election [or if it be stated in the oath that the person proposing to register is the minister of the gospel in charge of an organized church, then it will be sufficient to aver therein, two years residence in the State and six months in said election district] and am now in good faith a resident of the same, and that I am not disqualified by reason of having been convicted of any crime named in the Constitution of this State as a disqualification to be an elector; that I will truly answer all questions propounded to me concerning my antecedents so far as they relate to my right to vote, and also as to my residence before my citizenship in this district; that I will faithfully support the Constitution of the United States and of the State of Mississippi, and will bear true faith and allegiance to the same. So help me God." In registering voters in cities and towns, not wholly in one election district, the name of such city or town may be substituted in the oath for the election district. Any wilful and corrupt false statement in said affidavit, or in answer to any material questions propounded, as herein authorized, shall be perjury.

SEC. 244. On and after the first day of January, A. D., 1892, every elector shall, in addition to the foregoing qualifications, be able to read any section of the Constitution of this State; or shall be able to understand the same when read to him, or give a reasonable interpretation thereof. A new registration shall be made before the next ensuing election after January the first, A. D., 1892.

SEC. 245. Electors in municipal elections shall possess all the qualifications herein prescribed, and such additional qualifications as may be prescribed by law.

SEC. 247. The Legislature shall enact laws to secure fairness in party primary elections, conventions or other methods of naming party candidates.

SEC. 249. No one shall be allowed to vote for members of the Legislature or other officers who has not been duly registered under the Constitution and laws of this State, by an officer of this State, legally authorized to register the voters thereof. And registration under the Constitution and laws of this

(1) This specification and the oath prescribed in the succeeding section would seem to exclude every other religious teacher or preacher in charge of an organized religious body from this special privilege.

State, by the proper officers of this State, is hereby declared to be an essential and necessary qualification to vote at any and all elections.

SEC. 250. All qualified electors and no others shall be eligible to office, except as otherwise provided in this Constitution.

SEC. 251. Electors shall not be registered within four months next before any election at which they may offer to vote; but appeals may be heard and determined and revision take place at any time prior to the election; and no person, who, in respect to age and residence, would become entitled to vote, within the said four months, shall be excluded from registration on account of his want of qualification at the time of registration.

SEC. 253. The Legislature may, by a two-thirds vote of both Houses, of all members elected, restore the right of suffrage to any person disqualified by reason of crime; but the reasons therefore shall be spread upon the journals, and the vote shall be by yeas and nays.

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